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Moving to A Preferred Future:

A Reinventing Justice Action Plan

The Report of the Franklin County Futures Lab Task Force to the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management

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Moving to A Preferred Future:

A Reinventing Justice Action Plan

September 1995

The Report of the Franklin County Futures Lab Task Force to
the Chief Justice of the Supreme Judicial Court and
the Chief Justice for Administration and Management

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September 14, 1995

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Boston, MA 02108

Chief Justice for Administration and
Management John J. Irwin, Jr.
Administrative Office of the Trial Court
2 Center Plaza
Boston, MA 02108

Dear Chief Justice Liacos and Chief Justice Irwin,

We are pleased to submit to you *Moving to a Preferred Future: A Reinventing Justice Action Plan*, the report of the Franklin County Futures Lab Task Force.

This report and the work giving rise to the pilot proposals represent hundreds of hours by many people from Franklin County who care about our justice system and who have been inspired by your faith in us and your continuing words of support and encouragement.

As co-chairs of the Task Force, we have been privileged to lead this exciting project. As aware as we are of the tremendous output of effort that has brought us this far, we recognize the substantial work ahead. We look forward to the continuation of this exciting project, and we hope that our work will be of use to others who may wish to undertake similar initiatives elsewhere.

Thank you.

Very truly yours,

Hon. Thomas T. Merrigan
Co-Chair

Diane H. Esser, Esq.
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TTM/DHE:lsb
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Acknowledgements

The work of the Franklin County Futures Lab Task Force has been supported by community members in various ways.

Working group participants and other individuals spent hundreds of hours discussing their areas of concern and drafting proposals to submit to the Task Force for consideration.

Additionally, community members have supported the Reinventing Justice initiative by giving of their talents. Specifically, we would like to acknowledge with thanks the professional services donated by Deb Parker of Parker Communications, who designed the flier and helped with publicity for the Town Meetings in the Fall of 1994; Mike Farrick and MCTV have generously provided their communications expertise to the project; Trudeau & Trudeau Court Reporters and Catuogno Court Reporting each volunteered to record two Town Meetings, from which the quotations in this report have been taken; and Mary Apgar, who serves as the Director of Community Services for the County Commissioners, has committed untold hours of time to the Franklin County Reinventing Justice initiative in general and to this report in particular.

Our gratitude also goes to Franklin County citizens in general who have responded with open hearts and open minds to the invitation to collaborate with the courts in an effort to create a better future.

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Table of Contents

Introduction 1

Our Vision 7

Proposals 13

Overview of Proposals 15
1. Judicial Administration Team 18
2. Futures Lab Implementation Council 20
3. Court and Community Education and Outreach Board 23
4 Facilities 25
5. Juvenile Justice 31
6. Appropriate Dispute Resolution 37
7. Substance Abuse 41
8. Community Justice Diversion Board 44
9. Child Care Services 47
10. Family, Children and Juvenile Justice Delay Reduction 49
11. Elimination of Civil Case *De Novo* Trials 51
12. Navigating Justice 53

Conclusion 57

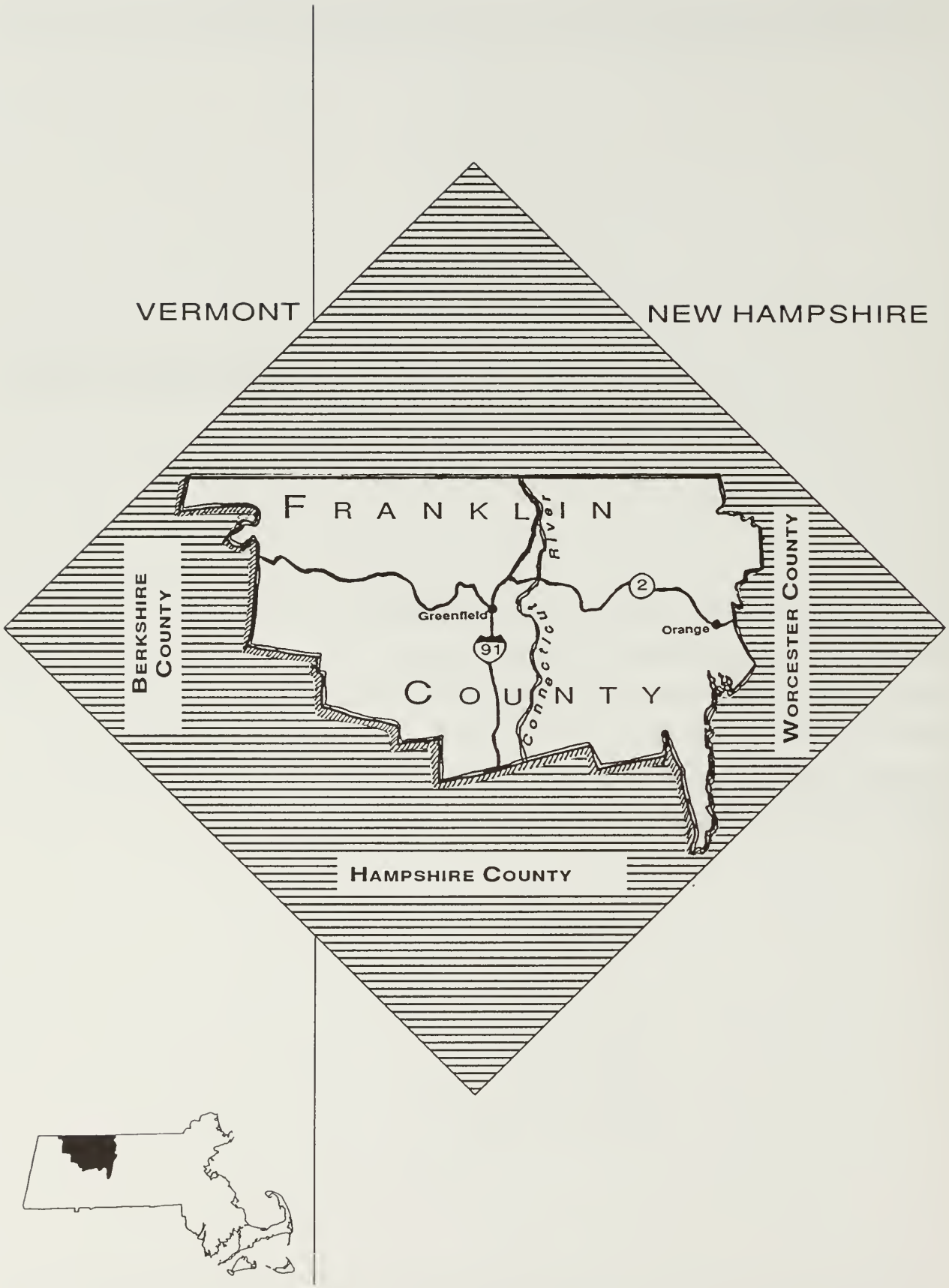
Appendix 61

Court Order Establishing the Franklin County Futures Lab Task Force 63
Town Meeting Announcement 65
"Justice for All Saturday" Invitation 67
Letter of Greeting from Chief Justice Liacos 69
Small Group Action Plan 71
Project Proposal Application 73
Proposal Evaluation Criteria 75
Proposal Summaries 77

Introduction

"We congratulate you on this creative, grass-roots proposal, and send you our best wishes for success in leading the courts of Franklin County to a bright and service-oriented future in the administration of justice."

Paul J. Liacos
Chief Justice of the
Supreme Judicial Court
and
John E. Fenton, Jr.
Chief Justice for
Administration and
Management
Boston, Massachusetts
December 8, 1993


VERMONT
NEW HAMPSHIRE
FRANKLIN
COUNTY
Connecticut River
Greenfield
Orange
2
91
BERKSHIRE COUNTY
WORCESTER COUNTY
HAMPSHIRE COUNTY

Introduction

While it is hard to characterize the quality of life in Franklin County, the attempt is important because the people and personality of the county have been the starting point for the Futures Lab project. According to the 1990 census, there are 70,092 people living in Franklin County, the largest population center being Greenfield, with 18,666 residents, the smallest Monroe, with a population of 115. Greenfield is also the county seat, with a court building housing Juvenile, District, Probate and Superior court departments of the Massachusetts Trial Court. A second court building in Orange houses a District Court and Juvenile Court. There are more than 100 practicing lawyers, and approximately 70 trial court employees.

Franklin County is located in the northeast area of Western Massachusetts. It covers 725 square miles and is connected by more than 1300 miles of local roads. It combines rural characteristics with several urban centers. The Connecticut River flows north to south and bisects the county, creating a barrier to road travel, a source of energy, and an opportunity for recreation. Along the river, the land is rich, flat and fertile; farming still dominates these plains. Ridges, hills and mountains are prominent features of the landscape of most of the county, which provide areas for downhill and cross-country skiing, for camping, hiking, boating, fishing, hunting and other recreation. The elevation rises from about 100 feet above sea level at the river to almost 1400 feet to the west in the foothills of the Berkshires. Interstate 91 parallels the Connecticut River, as does the Monadnock Trail, a hiking passageway which is an offshoot of the Appalachian Trail. Route 2 runs east and west across the northern part of the county and brings foliage viewers in the fall and maple sugar tasters in the spring. Massachusetts maintains 13 state forests and parks throughout the county.

Franklin County is an area of contrasts. It has a rich history of native peoples extending back thousands of years and of settlement that spans more than 300 years. In colonial days, as well as in the 1960s and 1970s, many individuals and many groups came to the Franklin County area seeking a new life. Initially settled by many people of English, Irish and Polish descent, recent changes include, and current demographic analysis reveals, increased growth of Asian, Hispanic and African American populations.

"Reform of the justice system is too important to be left to the lawyers and judges."

United States Supreme Court Chief Justice William Rehnquist
to participants at the ABA "Just Solutions" Conference, May 1994

Historically, the people of Franklin County are accustomed to participatory government, as evidenced by well-attended town meeting forms of local government. The enthusiastic public participation in the activities of the Franklin County Futures Lab Task Force was not unexpected.

In May, 1990, Massachusetts Supreme Judicial Court Chief Justice Paul J. Liacos recognized the need to explore important questions about the 300-year experience of the Massachusetts court system. To that end he established the Commission on the Future of the Courts "to articulate a vision of a preferred judicial system and identify methods for arriving at that preferred future."[1] To no one's surprise, the Commission concluded that public confidence in the court system was in a state of serious decline. The Commission concluded that the court system established centuries ago has not kept pace with the changes, expectations and needs of contemporary life; that the relationship between the courts and the communities they serve is ill-defined, often adversarial, and seldom a creative force. Overall, the Commission found that the public often perceives the courts to be expensive, ineffective, unresponsive and inefficient.

The Commission issued its report in May, 1992, and set forth "a new vision of justice for the next century."[2] The title of the Commission's Report, *Reinventing Justice: 2022*, declared its message: mere tinkering with the existing system would not work. Rather, an "ongoing task of reinventing justice for the future"[3] would require "concerted action ... by those within and outside the courts"[4] in order "to see more clearly the link between social justice and courtroom justice, to understand the economic and demographic forces that will define the societal and justice landscapes of the next century, and to ensure that the public's trust and confidence is regained and maintained."[5]

The Franklin County Futures Lab Task Force was born of a sense of urgency in our county about how we might undertake the challenge of reinventing justice in Franklin County. Our initiative called for the creation of the Franklin County Futures Lab Task Force, the convening of a series of Town Meetings to obtain community input and to establish the important necessary link between the court and the community, and the designation of Franklin County as a "laboratory" for

From the Floor:

"And it seems that philosophically what we've come to understand is that justice is something you go get because you do not have the capacity to get it yourself; you go to the judge, you go to a lawyer. And I wonder, if the idea is to reinvent justice, if we wouldn't look at the paradigm: Is it something you go to, to get to understand, or is it something in the reinventing process that we say everybody should know."

South County Town Meeting
South Deerfield, MA
November 3, 1994

[1]Commission on the Futures of the Court, "Mission Statement," *Reinventing Justice: 2022*, 1992, p. 2.

[2]Letter of David W. Sargent, Chairman, Commission on the Future of the Courts, to Chief Justice Paul J. Liacos, May 1, 1992.

[3]*Op. Cit.*, p. 1

[4]*Ibid.*

[5]*Ibid.*

the exploration and pilot project implementation of the vision of *Reinventing Justice: 2022*.

Our report, *Moving to a Preferred Future: A Reinventing Justice Action Plan*, articulates our vision of a preferred justice system and our proposals for implementing that vision.

Franklin County Town Meetings

East County Town Meeting
October 11, 1994
Orange District Court
7:30 p.m.

West County Town Meeting
October 26, 1994
Shelburne-Buckland
Community Center
7:30 p.m.

South County Town Meeting
November 3, 1994
Deerfield Elementary School
7:30 p.m.

North/Central County Town Meeting
November 17, 1994
Franklin County Courthouse
7:30 p.m.

From the Floor:

"Everything I have heard is trying to patch up a system that simply does not work. I say that we have got to change the whole system."

North County Town Meeting
Greenfield, MA
November 17, 1994

Our Vision

Our Reinventing Justice Vision

During the past eighteen months, the Franklin County Futures Lab Task Force has been engaged in an exciting and dynamic grass roots experiment to reinvent justice in Franklin County. Inspired by *Reinventing Justice: 2022*, the Report of the Chief Justice's Commission on the Future of the Courts, the Franklin County Futures Lab Task Force, through a series of Town Meetings held throughout Franklin County in the Fall, 1994, engaged in a discussion with the community about ways to redesign and reshape the justice system. We immediately came to know on a first-hand basis what the members of the Commission on the Future of the Courts had learned from its hearings and surveys, and what others had learned from similar surveys before them—that public confidence in the justice system is at a low point, and that, by the year 2022, the justice system will be irrelevant to the public unless drastic action is taken to bring about fundamental change.

Through the Town Meetings and other outreach activities, the Task Force experienced first-hand this crisis of confidence in our judicial system. However, we also saw that despite deep-seated frustration, anger and disillusionment, the public responded with optimism, energy and renewal to our local reinventing justice initiative. With support from Chief Justice Paul J. Liacos, from former Chief Justice for Administration and Management John E. Fenton, Jr., and from current Chief Justice for Administration and Management John J. Irwin, Jr., as well as support from the Trial Court Chief Justices, members of the community have been motivated to participate in long hours of meetings, discussions, research and writing. This process has resulted in thoughtful and interesting proposals for pilot projects in a variety of areas.

These proposals, as distilled in this report, are the product of many hours spent on Saturdays, Sundays, evenings, and early weekday mornings by the many community members who have become involved in this project as a result of the community-organizing activities of the Franklin County Futures Lab Task Force. In some cases the proposals mirror, in whole or in part, concepts originating with com-

From the Floor:

"I'm a consumer advocate. One of the things that I would like to see is Small Claims made more accessible to the people of Franklin County and more Small Claims sessions. I would have a family come in who just purchased a vehicle, maybe under $2000, but maybe that's all they had to spend, and the vehicle now isn't running, and I can't resolve the case in my office. I'm explaining to them the Small Claims process. And what happens is when they find out there is a year backlog on this, they explode, they don't believe in the system. And it's really hard to keep their faith. So I would like to see it more accessible."

North County Town Meeting
Greenfield, MA
November 17, 1994

munity members at Town Meetings or other forums. In other cases, proposals have been created by the Task Force in response to issues, symptoms and sentiments generated from the community.

The work of the Franklin County Futures Lab Task Force has benefitted greatly from funding by the Supreme Judicial Court, grant support from the State Justice Institute, the Massachusetts Bar Foundation, the Flaschner Institute, the Community Foundation of Western Massachusetts, the Massachusetts Judges Conference, the Franklin County Commissioners, and from administrative support and donated office space contributed by Greenfield Community College and the Greenfield Community College Foundation. A legislative appropriation of $50,000 for fiscal 1996 was secured with the support of Chief Justice Liacos, Governor William Weld, and our Senate and House delegation made up of Senators Rosenberg, Wetmore and Swift, and Representatives Buell, Kelly, Kulik and Story. The Franklin County Futures Lab Task Force has been selected by the National Center for State Courts to participate in the October, 1995, National Town Hall Meeting on "Improving Court and Community Collaboration." These funds and other forms of support have enabled us to grow from a fledgling idea and a belief to an exciting experience that is beginning to have an impact on the quality of justice in our community.

When we first proposed the creation of the Franklin County Futures Lab Task Force to Chief Justice Liacos, the following statement reflected our hopes for this project:

> [I]t is our belief that there exists an energetic, progressive population in Franklin County that would embrace the opportunity to become involved in a hands-on process that will bring the vision of 2022 to the community. We believe that the true and effective implementation of 2022 can only come about by bringing the community and the existing members of the legal community together as a whole to create the future.[6]

While we have begun this process and have experienced the positive and inspiring synergy of the engagement of the public community and the court community, we are only at the doorstep of actual change.

We have learned much; we have accomplished much; and we have come to realize the breadth of our undertaking. Along the way, we have acquired a vision of a community-based justice system with local management by judges who lead a court and community partnership aimed at improving access to and the delivery of justice.

From the Floor:

"I'm hearing a lot of different things. I hear a whole problem. We've got whole human beings with whole histories and living entire social systems where there's a lack of communication and we don't know what's happened.... it's a problem that we all probably need to deal with and maybe what this is about—this is very encouraging and exciting. We're willing to look at how we can communicate better and open lines of communication, and it's an assessment up front of what's going on with everybody.... I like the idea of assessing the justice system as well as all the links to it and out of it. There's a whole system there."

West County Town Meeting
Shelburne Falls, MA
October 26, 1994

[6]Proposal to Chief Justice Paul J. Liacos, requesting creation of the Franklin County Futures Lab Task Force, September 1993.

Our vision rests on the premise that the judicial branch of government and the community share an affirmative obligation to engage in a meaningful dialogue that will achieve the collaboration necessary to improve the quality of life in our community through improved delivery of legal services and a better designed justice system. Our vision means that institutionally the judicial branch must become more holistic in the values it holds about its mission:

> Clearly, our court system is not, nor should it be, a social service agency. Nevertheless, in accomplishing its primary mission of administering justice in criminal and civil cases, the judicial branch is obligated to serve the public with full recognition of the evolving needs of society. The thesis of *Reinventing Justice: 2022*... is that a new partnership between the judiciary and the community is required if the judiciary is to avoid irrelevancy in the public mind [by the year 2022].[7]

The judicial branch does not bear sole responsibility for change. The community must respond, as it has so enthusiastically in Franklin County, to new models of leadership from the judicial branch. Past frustration will not excuse apathy or cynicism by the community. The community must become a continuously active and vocal constituency for appropriations and resources sufficient to enable the judicial system and related social service providers to achieve the goals which the public has so clearly expressed to be central to its vision of an improved justice system.

At every Town Meeting and forum held by the Franklin County Futures Lab Task Force, it was apparent that the public complaints were symptoms of a system whose ills will not be remedied by simply changing the values and attitudes of the members of the judicial system. Many of the improvements the community desires will require active and dedicated public lobbying and support for the administrative, legislative and funding enactments necessary to realize these objectives.

While we have created a process of engagement between the court and the community, and as we observe the emergence of a shared vision of the future in Franklin County, we must proceed mindful and respectful of the fact that change begets anxiety. Inefficiency, chaos, and confusion impede access to and delivery of justice to the community; yet, for some, these conditions are functional, for they are at least known qualities and thus seem to be safe and secure in the face of change. Resistance to change is unavoidable. Often, it is a measure of its progress and success.

[7]Supreme Judicial Court Substance Abuse Project Task Force, *A Matter of Just Treatment: Substance Abuse and the Courts*, Final Report, March 1995, p.7.

From the Floor:

"... in this room we have social workers, we have principals, we have mediation people, we have jurors, we have farmers, we have people from all walks of life coming together, called together by the judiciary, to look at justice and to look at how it's working, and how it's not working.

"And what you're hearing is people saying it shouldn't all be up to you to solve all the problems of the community. You're already convening a community discussion about the problems in the justice system.

"And if we continue that process we can continue to look at not just what the justice system can do, but how the county justice system leads and empowers the community to take more responsibility for prevention, so the courts don't get so clogged up...."

South County Town Meeting
South Deerfield, MA
November 3, 1994

Our vision is one in which we move forward by building consensus for change. It is one in which we democratize, within constitutional limits, the defining of the public policy values by which we seek to be guided as we reinvent justice. We will move forward best by working positively and constructively with those who resist change.

Our reinventing justice vision encompasses not just Franklin County. As we are preparing this report, we are also preparing to participate as one of ten national downlink sites for a National Town Hall Meeting satellite videoconference to be held in October, 1995, on "Improving Court and Community Collaboration," a project sponsored and organized by the National Center for State Courts. We see the upcoming videoconference as a vehicle to lay the groundwork for a Western Massachusetts reinventing justice initiative. Within the diversity of the four western counties lies our strength. For example, by drawing upon its reinventing justice bond with Hampden County, the Franklin County justice system will better understand and serve the rapidly changing ethnic and cultural needs of Franklin County. We hope to benefit from the assistance and advice to be gained from the experiences of our colleagues in Hampden County where the justice system has longstanding and deep relations with the Hispanic and African American communities. Franklin County's Reinventing Justice community-organizing experience will be useful to those who wish to undertake such initiatives in Berkshire, Hampshire and Hampden counties. Winds of change blowing from Western Massachusetts will perhaps inspire others in Massachusetts and elsewhere in New England. The voice of Western Massachusetts will be stronger than the voice of Franklin County alone.

From the Floor:

"I applaud you for what you are about to do. I'd like to see you back in the community, in the schools. Because there is no operational definition of what justice is. Justice appears to be: When something goes wrong, somebody's got to pay for it, time or money."

South County Town Meeting
South Deerfield, MA
November 3, 1994

Proposals

Overview of Proposals

In this report we have categorized and defined broad areas where we believe fundamental change is necessary. These broad areas have their origin in the expressions of the community at the Town Meetings and various other public forums, and in the pilot project proposals that have been developed as a result of those forums.

We are, by Order of Chief Justice Liacos and former Chief Justice Fenton, a "laboratory" county. To date, in our laboratory, we have investigated new approaches to court and community dialogue. We have explored and experimented with the process of communication between the court and the community. We have made several important observations.

First, a grassroots engagement between the court and the community, aimed at improving the delivery of justice to the community, has already improved the public's confidence that our court system is open to meaningful dialogue and change. The sustained volunteer participation of so many community members in the working groups that gave rise to the proposals in this report manifests an expression of public confidence in our justice system. Likewise, community volunteers are actively involved in the preparation work for the National Town Hall Meeting scheduled for October, 1995.

Second, this process of court and community dialogue has the capacity to yield tangible results in the form of pilot proposals which bear strong indicia of successful outcomes. A measure of the potential success of our work is that some of the proposals contained in this report are already designed, approved and awaiting grant funding.[8]

Third, the key to our successes to date, and the anticipated continued success of our laboratory experiment, lies in the successful chemistry of court and community collaboration.

Our proposals call for continued laboratory work in Franklin County. They call for conceptual, structural and institutional change. We have devoted careful investigation and deliberation to the process of court and community discussion, and we are ready to use our labo-

[8]Family, Children, and Juvenile Justice Delay Reduction Project, see *Infra*., p. 49; and the Navigating Justice proposal, see *Infra*., p. 53.

"The quality of each individual's life and the health of our communities depend on the active participation of everyone. A fundamental understanding of the rights and responsibilities of a citizen is essential for preserving a democratic society. Students should learn to distinquish right from wrong, make informed decisions and achieve positive changes in their personal and community life. Upon graduation, all students must be able to:

•Understand the Rights and Responsibilities of Citizenship

•Understand how laws and the principles of democracy, equality, freedom and justice operate in society

•Understand individual rights and responsibilities and their relationship to community well-being

•Know and analyze how local, state and national governments are organized, operate and interact with one another."

Department of Education
Draft of the
Common Core of Learning
(Part of the Education Reform Act of 1993)

ratory to experiment with proposals for change. While our proposals are moderate, they hold the potential to produce disproportionately large gains in the delivery of justice and the improvement of public confidence in our judicial system.

Among the proposals we make, three are central to implementing the others:

- The creation of a Judicial Administration Team
- The establishment of a Futures Lab Implementation Council
- The creation of a Court and Community Outreach and Education Board

These three proposals together form the core of the structure by which the changes we propose can be achieved in an organized, efficient and responsible manner, with clear lines of authority to coordinate overlapping needs and demands.

The Judicial Administration Team, for example, contemplates a model of interdepartmental collegiality among judges which is unprecedented and ensures that the judges in the system maintain their constitutional and legislative authority while working as a team to improve the quality and delivery of justice within the court system in the local community. This team will be an institutional vehicle through which the judges will communicate in order to determine how best to serve the communities in which they sit, and to oversee the development and implementation of pilot projects.

The proposal for a Futures Lab Implementation Council provides the vehicle by which the other proposals in this report can begin to take shape, moving them from concept to reality under the oversight of the Judicial Administration Team.

The Court and Community Outreach and Education Board proposal is the means by which the Judicial Administration Team and the Futures Lab Implementation Council can involve and engage the community in the courts ("public inreach"[9]) and the courts in the community ("judicial outreach"[10]) over the long haul, providing a channel for the creativity and enthusiasm expressed by members of the community at the Town Meetings and other forums by institutionalizing two-way communication. This Board will coordinate the many avenues by which members of the Franklin County community interface with the courts through the other proposals contained in this report.

Conceptually, the relationship of these three proposals to the others can best be expressed by the flow chart on the following page.

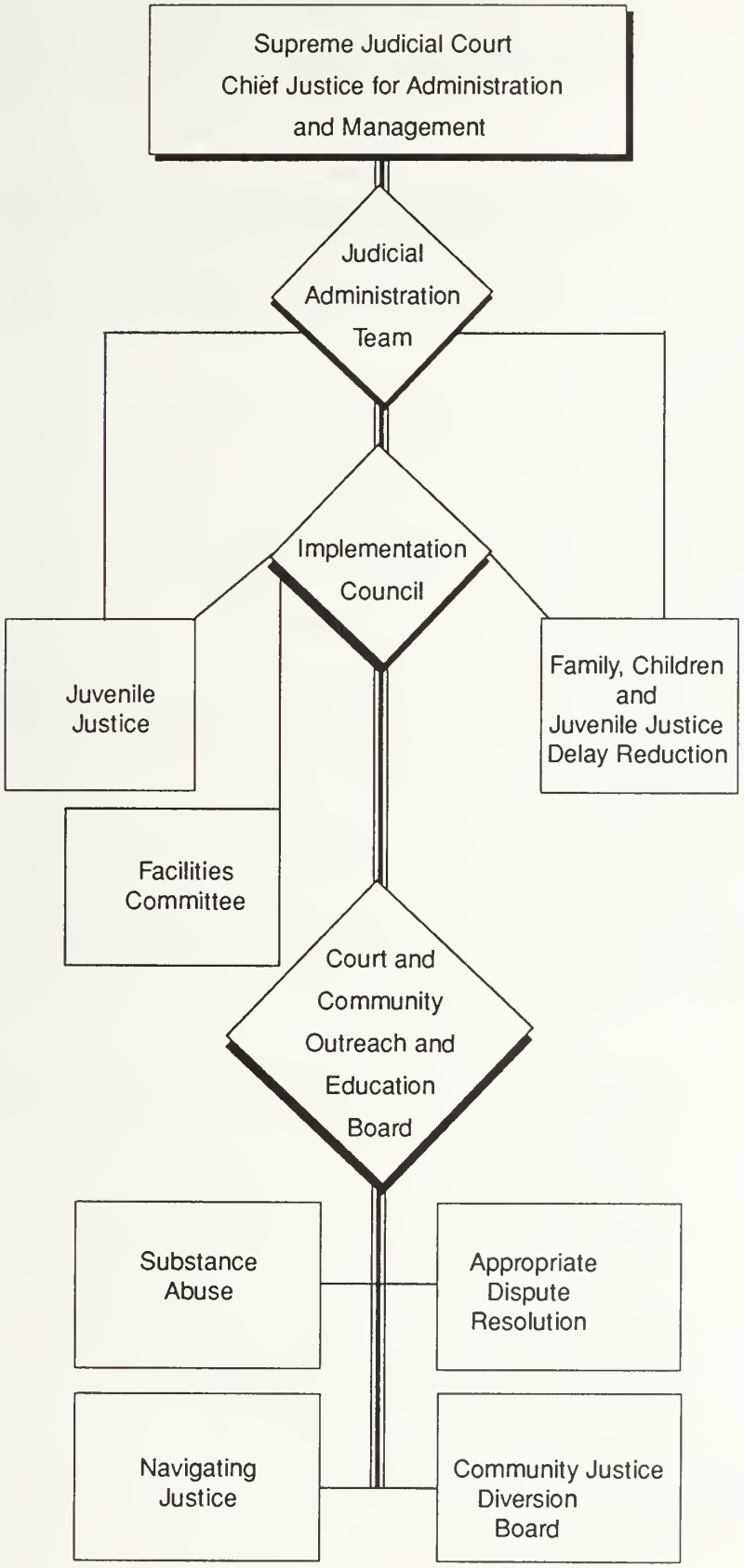
[9] *Reinventing Justice*, p. 24.

[10] *Ibid.*

From the Floor:

"My own suggestion, and that touches on two different subjects of what people have talked about as problems: You get to court and everything is stacked up and you don't know when you're going to get out; and then there's also the question of privacy. Perhaps one way of basically killing two birds with one stone is: If you seriously try to get into the scheduling of cases for particular time slots, then you don't need to have everybody in the courthouses at nine o'clock or two o'clock or at three o'clock.... That could ease, one, the congestion in the courts and having everybody on top of everybody else. It would also help the administration."

South County Town Meeting
South Deerfield, MA
November 3, 1994



From the Floor:

"Most people involved with the Court know two things: jury duty or testifying. Most people do not like to come a fourth and fifth time because the case wasn't called or there were continuances. It gives them a negative perspective of what's going on. In some way, these things have to be brought together within the system so part of the stuff is resolved before you bring people in.... To them it's their fourth or the fifth time that they have to leave their job and go to court."

South County Town Meeting
South Deerfield, MA
November 3, 1994

1. Judicial Administration Team

Proposal: **The Task Force proposes that the Supreme Judicial Court and the Chief Justice for Administration and Management, in consultation with the Trial Court Department Chief Justices, appoint a Franklin County Judicial Administration Team with representation from each department and each court.**

Commentary: The introduction to Pathway 5, *Reinventing Justice: 2022*, "New Models of Leadership," states:

> For the courts of the future to transcend today's sometimes fractious and fractionated administrative environment, leadership must begin now to create new management models and practices to meet tomorrow's challenges.[11]

The current structure of the trial court includes seven separate trial court departments, each of which is administered by a separate Chief Justice. The Chief Justice for Administration and Management oversees the operation and functioning of all seven trial court departments. The Task Force believes that a locally composed Judicial Administration Team with representatives from each department and each court will serve the interests of the trial court, the bar, and the community by providing a vehicle at the local level for coordination, planning, and shared use of limited resources. In its report, the Commission on the Future of the Courts observed:

> [T]he judicial process is basically local.... The local courts must be strong administrative units. There are natural and inevitable tensions and dysfunctions that emerge when state level officials attempt to manage local functions. More importantly, because courts are institutions that exercise profound power in individual cases (depriving people of their liberty, their children, their property, their homes) and because the judicial side of the court and the management side are so inextricably intertwined, the local court's authority on the management side must parallel its authority on the judicial side.[12]

The Task Force believes that a collegial team of local judges will be in a position to assist their respective department Chief Justices

From the Floor:

"I work in the courts every day with victims of crimes. One of the things that I hear from people that I'm working with is that they are frustrated by the delays. And I know this kept coming up throughout the evening. I have a few suggestions I would like to make about how we might be able to reduce some of those claims. One is to stagger the times that you schedule different kinds of cases, have one time that there are arraignments scheduled and one time that there are pretrial conferences and one time that there are trials scheduled throughout the day."

North County Town Meeting
Greenfield, MA
November 17, 1994

[11] *Ibid.*, p. 35.

[12] *Ibid.*, p. 85.

and the Chief Justice for Administration and Management by creating a local network to provide communication and cooperation among the trial court departments. This objective will aid the effective and efficient operation of the trial court.

The users and consumers of our justice system will be the true and ultimate beneficiaries of a locally based administrative entity. The Judicial Administration Team will become a forum for discussion of new ideas generated in the community and conveyed to the Judicial Administration Team by the Implementation Council or the Court and Community Education and Outreach Board. These new ideas may originate as suggestions from jurors with ideas to improve the mechanics of jury service, from attorneys seeking scheduling improvements, from bilingual individuals seeking improved services, and the like. The Judicial Administration Team will review these needs and proposed solutions, communicating, where appropriate, with the Chief Justice for Administration and Management or Trial Court Chief Justices concerning feasibility.

It is not the purpose of the Judicial Administration Team to supplant or replace the authority of the Chief Justice for Administration and Management or the Trial Court Chief Justices. Rather, its purpose is to complement their respective administration and management functions and aid them in their duties. We have discovered that the community wants to be heard. We have also discovered that with communication and information the community understands the limits of resources and the institutional realities that dictate why some things are done the way they are. Open dialogue between judges and the community was a catalyst for enthusiasm and commitment at our Town Meetings and other forums, and the Judicial Administration Team can continue to serve this very necessary function.

It is important for judges from all departments to participate in the Judicial Administration Team so that the process will benefit from cooperation and inclusion of all viewpoints. Judicial involvement in the Task Force and in the development of these proposals has been an experiment in such collegial interdepartmental dialogue among judges. This proposal is an expression of the desire and willingness of the judges involved to continue this worthwhile interaction.

The Franklin County Judicial Administration Team will be under the immediate authority of the Supreme Judicial Court and the Chief Justice for Administration and Management. The Judicial Administration Team will have the responsibility to manage Futures Lab implementation activities (except as otherwise provided in the Facilities proposal) and to further the pilot projects we are proposing, as may be approved by the Supreme Judicial Court and the Chief Justice for Administration and Management.

From the Floor:

"I'm the Town Manager, Greenfield.... First of all, the six-person jury that meets in Orange, which I think is a change that happened a year ago, is costing us [the Town of Greenfield] a lot of money in terms of overtime for the police officers that have to testify.... And as we project it now, it will be fifteen, maybe twenty thousand dollars of unbudgeted cost for overtime. I don't have an easy solution, other than move that to Greenfield."

North County Town Meeting
Greenfield, MA
November 17, 1994

2. Futures Lab Implementation Council

Proposal: **The Task Force proposes the establishment by the Supreme Judicial Court and the Chief Justice for Administration and Management of a Futures Lab Implementation Council.**

Commentary: A Futures Lab Implementation Council is necessary to move the year long work of the Task Force and the community from a textual vision of the future, through detailed planning, to implementation. The proposals contained in this report reflect many long hours of community involvement, discussion and deliberation. They are for the most part a distillation of the substantial work product of community groups which grew from a December 3, 1994, facilitated workshop attended by over 100 people from all segments of the community.

There are essentially three categories of proposals contained in this report.

First, there are proposals that go to the heart of the operation of the trial court, at the local level, on a day-to-day basis. These include proposed revisions in the juvenile justice system in Franklin County, the establishment of appropriate dispute resolution options, and the Family, Children, and Juvenile Justice Delay Reduction Project which includes emergency availability of Probate and Family Court services through the Orange District Court. A collaborative effort across trial court department lines is necessary for the implementation of many of these proposals.

A second group of proposals concerns the relationships between those who work within the court system on a daily basis and those who do so less frequently, and calls for cooperation between the court and the community. This category of proposals includes the creation of a child care/visitation facility for trial court employees, jurors, witnesses, and supervised visits, implementation of the recommendations in the Final Report of the Supreme Judicial Court Substance Abuse Project Task Force, *A Matter of Just Treatment: Substance Abuse and the Courts* (hereafter referred to as *Just Treatment*) and the establishment of intermediate and alternative sanction programs including the creation of community-involved diversion projects.

Finally, there are proposals which will produce community education initiatives involving judicial branch leadership in and with the community. These activities will include the Navigating Justice project as well as other efforts flowing from the public involvement and education component of implementing our reinventing justice model.

From the Floor:

"On the scheduling issue, I'm with the Warwick Police Department and a lot of the part-time departments in this area would like to see a night session.... I would like to see that really explored. Scheduling is a problem for us part-time departments. We have to take time off of work and sometimes it's exasperating when I come in with someone I've arrested and it ends up costing me more than him."

East County Town Meeting
Orange, MA
October 11, 1994

Pilot projects contemplated in any of these categories can and will be implemented only if preceded by democratic, community-based collaboration between all stakeholders, spearheaded by and unified in a common commitment to the creation of a community-based justice system as envisioned in *Reinventing Justice: 2022*.

A Futures Lab Implementation Council will be a vehicle for bringing together members of the judicial branch, trial court employees, the District Attorney, the Sheriff and police departments, the private bar, DSS, DYS, and other providers of social services for children, families, family violence, and substance abuse.[13]

Some proposals will require more change than others. A proposal will become actualized and operational only by careful and detailed consensus building, both inside and outside the court system. Support and approval will be required of all who work in and with the courts, and at all levels of management.

The support of the Chief Justices for the work of the Franklin County Futures Lab Task Force, and the successful year of unprecedented grassroots work that has been done, has heightened community interest in continuing the work we have begun. The foundation work aimed at constructing a community-based justice system has been started, and a Futures Lab Implementation Council will continue the work necessary to bring our vision to fruition. Moreover, several of the proposals submitted by the community working groups contain recommendations for some form of a local entity that will have the responsibility of moving proposals from conceptualization to implementation. For example, the proposal from the Juvenile and Family Court working group specifically called for the establishment of a Reinventing Justice Implementation Council. In addition, the Administration/Efficiency working group, the Alternative Sentencing working group, the Education and Community Outreach working group, and the ADR working group each proposed a coordinating entity with responsibilities that we believe can be successfully accomplished through the creation of a Futures Lab Implementation Council.

From the Floor:

"The youth situation, the courts have not done real well. Similarly we as parents and families have not done real well. I think perhaps the reason in both cases is lack of respect by the youth of both the family and the courts. I think perhaps a session like this, if you could get your Task Force to hold it, to get them to really talk to you, to find out what they really think of the courts might go a long way towards getting some meaningful court process for them."

North County Town Meeting, Greenfield, MA
November 17, 1994

[13]Many of the existing members of the Task Force may also be members of the Implementation Council by virtue of their status as primary stakeholders. A new entity is necessary because, upon submission of this report in accordance with the Order of the Chief Justices creating the Task Force and setting forth its charge, the duties of the Task Force will then be complete. Under the authority of the Franklin County Judicial Administration Team, the Implementation Council will establish and supervise the Court and Community Outreach and Education Board and working groups that are necessary to the consensus building and collaboration development to support the establishment of pilot projects.

"MONTAGUE—With the town Highway Department's mower broken and school opening, Montague Highway Superintendent Edward Mleczko Jr. was worried about getting the high grasses and brush cut down at road intersections to prevent the growth from obscuring vision. But the sheriff's office has lent a hand by offering inmate work crews who will be trimming up the brush along 40 to 50 road intersections during the next week or so. 'For us, this was a life-saver,' said Mleczko. 'It's been such a help to the community.' Mleczko said the inmates from the Franklin County House of Correction are doing an excellent job, and that working with them has been a good experience for town highway workers."

The Recorder
Greenfield, Mass.,
Tuesday, September 5, 1995.
P. 9

The creation of a Futures Lab Implementation Council, as contemplated by this proposal, finds support in many of the areas of *Reinventing Justice: 2022*.

> In seeking to rebuild the public's confidence in justice, the courts should build working relationships with other major social institutions. Collaborative partnerships with the public are often effective ways to improve government performance. Administrators working with citizen boards, for example, come to better understand the public's point of view.[14]

We believe that the Futures Lab Implementation Council will enable the court and the community to work together to realize the spirit and vision of *Reinventing Justice: 2022*.

[14] *Ibid.*, p. 22.

3. Court and Community Education and Outreach Board

Proposal: **The Task Force proposes the creation of a Court and Community Education and Outreach Board that will create permanent justice outreach and permanent public inreach as contemplated in *Reinventing Justice: 2022*. This Board will also serve as a clearinghouse and coordinating structure for many of the court and community collaboration groups that will be generated by the various proposals in this report.**

Commentary: Several of the proposals submitted by working groups to the Task Force call for the establishment of court and citizen advisory groups consisting of community members, judges, lawyers, law enforcement and corrections officers, social workers and other service providers, mediators, school officials and other individuals involved in the justice system. The Education and Community Outreach Working Group proposed the "continuation of the integration and information exchange between the court and the community begun by the Franklin County Futures Lab Task Force."

The Alternative Sentencing Working Group proposed the creation of a Planning Board of Sentencing and Correction aimed at system and citizen collaboration with a focus on "preventing recidivism and restoring community" through conflict resolution training, and alternative sentencing options and programming during incarceration. A "Changing Lives Through Literature" project was proposed with similar objectives based upon adaptation of successful models currently operating in the New Bedford and Lynn District Courts. A separate proposal in this report calls for the creation of a Community Justice Diversion Board which will use qualified members of the community to assist in the disposition and resolution of certain cases in the different departments of the trial court. In addition, the substance abuse proposal contemplates a community coalition on substance abuse.

While each of these groups will focus on different subject matter, we believe it does not seem necessary, practical or even feasible to create separate independent court and community boards for each project. Rather, we propose that the Implementation Council establish a single entity that will manage and coordinate a variety of community advisory and citizen participation boards directed to the various objectives as set forth throughout these proposals. A Court and Community Educa-

From the Floor:

"And why not conceive of the justice system as also having a role in prevention, in community education, et cetera? I know that up here that's basically an executive or legislative function, or community function. But I think that a partnership between the judicial system and the community around issues of prevention—why wait until it's a court issue? Why wait until there's been a crime committed or an infraction or whatever?"

South County Town Meeting
South Deerfield, MA
November 3, 1994

tion and Outreach Board, under the direction of the Implementation Council, will be an umbrella to the various groups of community-involved citizens.

The Education and Community Outreach Working Group recommended that a community activity service be made available to court employees with compensatory time credited to the employees for such community activity. The Task Force supports the concept of a community activity option for trial court employees who choose voluntarily to participate in such projects. The Task Force understands the complexity of issues involved in such a proposal and recommends that the Supreme Judicial Court and Chief Justice for Administration and Management explore and devise appropriate policies for judicial branch employees who wish to participate in community activity as professional enhancement.

From the Floor:

"It seems like what I've heard here is, opening lines of communication between the courts, the lawyers, the judges, the educators and those people who need the services, really needs to happen.... Opening lines of communication also allows education on all levels. I think this would be educational for the judges. You don't want someone who comes here as a witness to feel intimidated. And the only way for them not to feel that intimidation or that apprehension is through an education process. Have the lawyers and courts do outreach. You may not have the funds or the wherewithal to demand all these special services. By supporting them and knowing that they are needed, it will help them to exist."

East County Town Meeting
Orange, MA
October 11, 1994

4. Facilities

The Task Force has two facilities proposals: Proposal One, the appointment of a courthouse administrator, seeks immediate short-term remediation of facilities problems. Proposal Two, the appointment of a Franklin County Facilities Committee, seeks to achieve a long-range solution.

Proposal One: **The Task Force proposes that the Chief Justice for Administration and Management, the Franklin County Commissioners, the District Attorney and the Register of Deeds immediately and jointly appoint a Franklin County courthouse administrator who will facilitate the coordinated use of all courthouse and trial court space in Franklin County, both State and County occupied.**

Commentary: The Franklin County Courthouse, built in 1931, houses the District, Probate, Juvenile and Superior Court departments, the Registry of Deeds, and the Franklin County Commission (which includes the Engineering Department, the Franklin County Cooperative Building Inspector, the Municipal and Human Service departments and the County Treasury). The Northwestern District Attorney's Office also occupies office space in the building. The Franklin Law Library is severely cramped in its space needs and is without adequate space for the high volume of court and community use, library materials, storage of older materials and library administration. The grand jury room, when not in use by the District Attorney, also is used for jury pools, trials, administrative hearings and for other public meetings. Efficient and coordinated use of limited space is critical to the smooth administration of court functions and to accommodating the needs of the District Attorney, the County, and the community, and to the expanded vision of user-oriented justice. Pathway 1, *Reinventing Justice: 2022*, recognizes that:

> To be truly consumer-oriented the courts of the future must be able to treat a variety of problems through a variety of methods under a single roof.[15]

In order to achieve this objective, there must be cooperative use of courthouse space. Scheduling must be centrally coordinated and

[15] *Ibid.*, p. 13.

From the Floor:

"What I think we need to do is find creative solutions that aren't necessarily in the mainstream. All the assumptions here are that the courthouse has to be in one central place, one central building.

I was at a recent trial and all that I recognized was there was a bench for the judge, a witness stand, a place for the jury, and all of it could have been put in the back of a pickup truck, and we would have distributed a courthouse all around that would solve that. A county could buy a house in every community or something. It doesn't have to be a central place."

South County Town Meeting
South Deerfield, MA
November 3, 1994

allow for flexibility and creativity. At each of the four public forums on reinventing justice, community members complained about the protracted length of time necessary to complete trials and other courtroom business, and the lack of evening and weekend hours. The public would like to see more efficient use of the existing courthouse facilities so that several proceedings could run simultaneously, thus eliminating long waiting periods for case outcomes.

Yet, there are many occasions when courtrooms and other areas not in use could be utilized if there were an administrator who could monitor, plan and coordinate use and space needs. Such an administrator will enable the court and the county to get as much use from our extremely limited space capacity as possible, while improving services to the community by using existing space to produce speedier and in some instances more geographically accessible case dispositions.

Several community proposals asked for increased use of courthouse facilities by community groups, and many courthouse employees cite the lack of space for meetings and hearings as a major drawback to the present facility. The need for coordinated and creative use of space is already upon us, and we have already created a climate of cooperation. During the months of October and November, 1995, the District and Superior courts, along with the District Attorney and the County Commissioners, will need to coordinate the use of courthouse space to accommodate the District Court jury of six session simultaneously with the Superior Court jury session. As part of this effort, the Franklin Probate Court and the County Commissioners agree that, when available, their space (courtroom and meeting room) may be used for court sessions and jury functions on a temporary basis. This *ad hoc* arrangement will be of benefit to lawyers, victims, municipalities with limited overtime budgets for police, witnesses and jurors who would otherwise travel to Orange for the jury of six session. More important, this *ad hoc* arrangement illustrates the need for and benefit to be derived from the use of a local courthouse administrator who will identify and plan further opportunities for maximizing the use of limited resources for the benefit of the community. In addition, the recent expansion of the Juvenile Court to Franklin County requires space needs which will also benefit from the services of such a courthouse administrator. Since the Juvenile Court will sit in Greenfield two days a week, local coordination of Juvenile Court space may also serve to alleviate on a temporary basis some other trial court space limitations if and when additional space for the Juvenile Court is put in service.

The concept of a courthouse administrator to better schedule hearings in a timely fashion and better serve the needs of court users and

From the Floor:

"Our court system is set up so that everyone appears in court at 9 a.m. That's pretty unrealistic when you have an hour or an hour and a half of arraignments, then you have a recess, then they come back in, and then you have restraining orders. Now we're looking at 11:30, 12:00. You have a witness that is missing a day's work,... sitting there losing a whole day's work. If scheduling could be done a little differently, the person could maybe come in at 1:00 and only lose half a day's work."

East County Town Meeting
Orange, MA
October 11, 1994

justice consumers is embraced in Pathway 5, *Reinventing Justice: 2022*, "New Models of Leadership":

> For the courts of the future to transcend today's complex administrative environment, leadership must begin now to create new management models and practices to meet tomorrow's challenges.[16]

There have also been suggestions throughout our process that the community will be more efficiently and effectively served with some off hours court sessions (e.g., early a.m., after 4 p.m. and on Saturdays[17]). In addition, there have been suggestions that there be experimentation with mobile court projects for simple or uncontested matters in some of the outlying communities and that these sessions include teen courts and limited juvenile sessions in some of the area high schools. For reasons as broad and varied as increasing access and enhancing juvenile accountability, and in keeping with our desire to utilize our "laboratory" to experiment with new methods of meeting these objectives, the Task Force supports these proposals conceptually. We believe that moving forward with these innovations involves issues of facilities as well as the willingness of trial court employees and members of the bar to participate in such experimentation. A courthouse administrator, working in conjunction with the Implementation Council, will be able to investigate the feasibility of and to manage the physical and human resource logistics of such initiatives.

Initially the position of courthouse administrator could be filled by the part-time services of an existing trial court employee. Because this proposal has the support of the local judges, the District Attorney, the lawyers, the County Commissioners, and the Register of Deeds, and because it does not require financial expenditure, we believe that the appointment of a courthouse administrator presents an important opportunity to improve public confidence in our judicial system at little or no actual cost.

From the Floor:

"You have got two courts here, one is down on the east end of the county and the other at the central part of the county, and, yet, people from the west end of the county are called for jury service to the east end of the county. This is fine for people who travel from Greenfield to Orange, but to be called in from Hawley and Monroe and sent down to Orange is kind of tough, especially on citizens that don't drive. It's very scary on snowy days. 'I've got to get up early in the morning,' and some people don't even know where Orange is."

North County Town Meeting
Greenfield, MA
November 17, 1994

[16] *Ibid.*, p. 35.

[17] Provision of such additional court services is recommended in *Reinventing Justice: 2022*, p. 68; however, before such additional use is possible, discussions with the County Commissioners must occur concerning additional costs to the county, if any, which might be caused by such additional use.

From the Floor:

"As a social worker, I think the thing that bothers me the most about our facilities is that the material we're dealing with is very sensitive; it should be confidential. And everybody is privy to everybody's business in the hallway or in the hall in the Orange court. I think that's something that needs to be looked at. It's very difficult to support a family through the Court and not have everybody in the whole room hear what's going on."

South County Town Meeting
South Deerfield, MA
November 3, 1994

From the Floor:

"I work at NELCWIT. I get lots of complaints from women who have to go to court and get a Restraining Order and sit there all day in front of a man who has battered them. They have to sit there all day and face that person."

North County Town Meeting
Greenfield, MA
November 17, 1994

Proposal Two: **The Task Force proposes that the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management authorize the Implementation Council to convene a Franklin County Facilities Committee immediately to prepare a comprehensive capital plan that will enable us to speak with one voice on the issue of our severely inadequate facility. This Committee would include judges, the County Commissioners, the District Attorney, the Sheriff, the local bar, the Register of Deeds, the head law librarian, and the business and social service community. The Task Force proposes the creation of a comprehensive justice center as envisioned in *Reinventing Justice: 2022*.**

Commentary: The proposal for a courthouse administrator is at best an interim solution that will help the trial court, the county and the community to buy some time. In reality, however, we must face the fact that the existing facility is inadequate to serve, even minimally, the needs of the community and the court system.

During Town Meetings and other forums it became clear that our poor facilities constitute a major factor in the deterioration of public confidence in our judicial system. For example, domestic abuse victims stated that they are often intimidated as they had to use their pocket books as desks while filling out restraining order applications in the crowded courthouse hallways as their victimizer stood only a few feet away. Participants in juvenile proceedings are herded into packed hallways awaiting the calling of their "number" in an anonymous numbering system that, because of the facilities, is neither confidential nor anonymous. Because of insufficient facilities in Greenfield, jurors are required to drive 40-50 miles to Orange over rural icy roads in the winter in order to serve the District Court jury of six session. Many feel that the absence of child care facilities for jurors has resulted in the near systematic exclusion of women with young children from jury service. At the same time, children are often present in the courtroom and are exposed to inappropriate subject matter involving violence, abuse, drugs, and domestic turbulence.

If capital construction and facilities solutions are not promptly initiated, many of the proposals contained in our report—accessibility, case management, delay reduction, consumer orientation, community collaboration, and electronic access—will be compromised at best, and unattainable at worst. The real future as envisioned in 2022 for the justice system in Franklin County will depend almost entirely upon a complete capital commitment.

This capital commitment must begin with a vision of accessibility in the broadest sense of the word. A capital plan must consider cultural and language differences, handicap needs, and electronic access to files and records, for example. It must convey a sense of dignity, authority and deliberation in the spaces where that is needed, while at the same time providing information, technical assistance, professional support and services, comfort, safety, and privacy. It must have places, large and small, private and open, for the public to gather. It must have conference space where lawyers and clients may meet in private. It must have adequate working space for court employees, for litigants, for witnesses, for lawyers, for court reporters and interpreters, for police and social service providers, and for jurors—all of whom have differing needs for privacy, safety and comfort and who should not be forced to share the same space at the same time. Of critical importance, our future courthouse must have appropriate space for child care services for employees, witnesses, jurors, and for those needing a facility for court-ordered or other needed supervised family visits. There must be multi-function courtrooms, some geared toward the formality of trials, others oriented to the needs of children and families. There must be space suitable for other dispute resolution proceedings such as mediation, conciliation, arbitration, master's hearings, magistrate's hearings, teen courts, community justice diversion sessions, review boards and the like. There must be space for court-oriented public education programs, for videotape viewing, and for access to videoconferencing, electronic filing, docket review and research.[18] There must be space available for ancillary services to the court such as forensic examinations and evaluations as well as substance abuse assessments and AA/NA meetings as contemplated in the *Just Treatment* recommendations of the Substance Abuse Task Force.

There must be a central public security entrance spacious enough to handle the crush of an early morning crowd without compromising either safety or aesthetics, and there should be one or more separate security entrances for court employees, jurors, lawyers, judges and others who use the court on a more regular basis. There must be an automated kiosk or information desk, appropriate signage including "you are here..." maps, and clear indications of where to go upon entering the facility, in order to minimize congestion, maximize accessibility and eliminate the problem of court employees frequently being interrupted in their work because people entering the court are left to fend for themselves and as a consequence, blunder into an office to ask the necessary question "Where do I go to find...?" Until more advanced

[18]See The Office of the Chief Administrative Justice of the Trial Court, *Study and Plan for Creating an Integrated Information System for the Massachusetts Trial Court*, December 1, 1992.

From the Floor:

"Sometimes some of my clients have to go into the courthouse and they are not going for a court appearance, but they are going in to go into Probate Court, and I've convinced them that this is something they can do and it's a caring place for them to go. And they just want to go for information. And they come back absolutely like, 'Forget it, I don't need that kind of information, I don't need to go into the building,' because they are intimidated with that process."

South County Town Meeting
South Deerfield, MA
November 3, 1994

technology is in place, clear and easy information about audiotapes, videotapes and printed materials should be available upon entrance to the courthouse.

We visualize a courthouse that will truly be the "comprehensive justice center" envisioned in *Reinventing Justice: 2022*. Our comprehensive justice center will be a place where the judicial branch and the community will work in a single facility to deliver justice that is accessible, holistic, relevant and comprehensible.

The effort to attain this goal must be undertaken immediately, and for this reason we propose that a Facilities Committee be established without delay that will lead to the construction of our comprehensive justice center. The present building, which is owned by the County, occupies a desirable central location in the Town of Greenfield, yet it is questionable whether or not it has sufficient square footage and versatility to be renovated as drastically as may be needed to accomplish a courthouse design that will take us into the future. The Facilities Committee will lead the community in focusing on the important questions concerning the most suitable location within the community for our "comprehensive justice center."

From the Floor:

"I am continuously amazed at the amount of time that people spend in there in that one hallway in the Greenfield courthouse, and I would just really love to see us have some kind of waiting rooms."

South County Town Meeting
South Deerfield, MA
November 3, 1994

5. Juvenile Justice

Proposal: **The Task Force proposes the creation of a multi-faceted juvenile justice pilot project that will experiment with new approaches to issues involving juveniles and families, as follows:**

1. **The Task Force proposes the following changes in the sentencing and commitment authority of the juvenile judges and the use of diversion for cases in the juvenile system:**
    a. **Juvenile judges should be authorized to order fixed terms of custody for delinquent juveniles.**
    b. **Juvenile judges should have authority to make orders of custody in CHINS cases when appropriate.**
2. **The Task Force proposes that juvenile delinquency proceedings be open to the public: where a juvenile is charged with a second or subsequent offense; where the District Attorney seeks transfer of the case; where the judge otherwise orders. The judge will retain the authority to close any proceedings where the judge determines that the harm to the juvenile outweighs the interests of the public in open proceedings.**

General Commentary: During the Town Meetings, many people expressed deep and angry frustration over the inability of our current justice system to effectively deal with youthful offenders. The complaints and criticisms were varied and wide ranging. They came most vocally from parents who had witnessed the degeneration of their children as they wallowed in an impotent juvenile justice system. They came from school officials, social workers, state agency employees, and others working in the juvenile justice system who decried the inability of the legal system to respond with effective and meaningful assistance to obvious indications of troubled juveniles.

Distress was repeatedly voiced over a system that prevented a disempowered community, as embodied in the court system and related social service agencies, from effective early intervention with children who at school, at home, and in the community were sending loud and unmistakable signals that they would soon be among the juvenile CHINS and delinquency population.

From the Floor:

"I want to continue with what this gentleman over here, the landlord, was talking about judges not having enough power. It seems like I have been dealing with this court in particular for about a year and a half now with my daughter, who is a troubled child. And right now she is getting help.... The CHINS virtually means nothing. I have been working with [the probation officers], and it's like the judge can't do anything. I had my daughter in that courtroom about six months ago, standing there with this arrogant attitude, chewing her gum. And it made me angry and this judge could do absolutely nothing, nothing to make her go back to this program. She was out on a run, is what happened, and had been picked up on a CHINS warrant. All the CHINS warrant does is allow a police officer to pick her up if she's a runaway."

East County Town Meeting
Orange, MA
October 11, 1994

The following proposals in many respects depart from the theoretical and traditional underpinnings of our current juvenile justice system and suggest alternatives originating in the community. They reflect an attempt to make the system more effective and to allow the community to exert appropriate responsibility over fundamental community concerns.

Commentary for Proposal 1.a. (Delinquency Proceedings): An honest analysis of the system's failures reveals that, while many juveniles can be the subject of effective probationary supervision, more concrete intervention including specific custodial commitments are necessary to respond to criminal conduct by our juvenile population. In considering the proper disposition of serious delinquency cases under our current system, a judge is frequently faced with the dilemma of keeping a juvenile in the juvenile system or transferring him or her to the adult criminal justice system. In many cases, these two choices are inadequate to deal effectively with the offender.

On the delinquency side, leaving a case in the juvenile system relegates it to a system that often sends the wrong message to individuals. Since juvenile custodial commitments by the court to DYS are indeterminate in term, and because there are insufficient resources to retain in custody those juveniles who have been adjudicated delinquent, sometimes juveniles are released by DYS from lockup without necessity of further approval of the sentencing judge. In these cases, an intentional decision by a judge to confine a juvenile is countermanded by the economic realities of an administrative agency (DYS) that is unable, because of insufficient resources, to carry out the specific wishes of a judge. As a result, in these cases, both the theoretical and the actual reasoning for assigning a juvenile to DYS custody is thwarted. Moreover, the mixed messages given to these juveniles lead them to believe that anti-social behavior or criminal conduct on their part will not result in significant consequences, despite the specific intention and attempt of the judge to hold them accountable.

Conversely, the transfer of a juvenile case to the adult system, even when appropriate, is often inadequate to intervene effectively in the underlying problem. Because traditional adult theories of sentencing do not apply to juveniles, a juvenile in the adult system will, except in cases of very serious crimes, be treated differently than an adult. The adult correctional system is overburdened, and it is not inherently equipped to serve a juvenile population of transfer cases. As a result, successful intervention at that level is unlikely. Rather, a juvenile transferred to the adult system stands in contrast to adult offenders, many of whom have a significant history of criminal behavior. As a conse-

From the Floor:

"I think they (the courts) are still giving the children control over the situation. The kids are controlling the homes, the schools, and I have a feeling they are attempting to control the court system. They know the lingo. They know how it works in here. They high five each other in here. It's a game to them in here. Our parents are sitting here totally frustrated, out of options.... The consequences need to come a lot sooner for their actions."

East County Town Meeting
Orange, MA
October 11, 1994

quence, the response is minimized and the result is the opposite of what was intended in the first place.

We do not criticize DYS workers for the decisions they make in the face of insufficient resources. However, we do take strong exception to a juvenile justice system where juveniles and families are ill-served on a daily basis. We take strong exception because so much could be achieved by simple measures that would authorize judges to hold delinquent juveniles accountable for the behavior they chose.

Many parents and others involved in the juvenile justice system who participated in our reinventing justice forums complained bitterly over the fact that current intervention efforts were completely undermined because judges had no teeth to their authority. However, it is not our view that a judge should be able, in a pique of exasperation, to "lock 'em up and throw away the key." We envision a situation where, after a juvenile has been found delinquent on repeated occasions or has ignored reasonable rehabilitative conditions such as obeying a curfew, attending school, obtaining substance abuse treatment or participating in counseling, a judge will be able to commit that juvenile to custody for a fixed period. The resulting accountability would then rest with the judge rather than a bureaucratic entity. For juveniles there will be consequences that flow from their conduct and a learning and rehabilitative process that is meaningful and above all, honest. For the juvenile justice system and the community, there will be a credibility that is completely and sorely lacking in our current effort.

Most significantly, we believe that if we are talking about a juvenile justice court system, then it should be the judge who is in charge.

Commentary for Proposal 1.b. *(Orders of Custody in CHINS Cases):* We also believe that our juvenile justice pilot project should afford a judge similar authority to order a period of commitment, for reasons similar to those in delinquency cases, for juveniles in CHINS proceedings where a judge makes specific findings, supported by the record, that the best interest of the juvenile will be substantially served by a custodial placement. Although CHINS proceedings are not criminal in nature, they often reflect problematic behavior and involve the existing or future delinquency population. Like delinquency proceedings, CHINS cases present timely opportunities to make juveniles understand that they are accountable for their conduct—to themselves, to their families, to their schools, and to their communities. Where a CHINS juvenile has responded with defiance to court orders, a judge should be able to order a period of confinement as a rehabilitative endeavor aimed at getting the attention of the juvenile and helping the juvenile accept responsibility for complying with the orders of the court. Such a confinement would be in the nature of a quasi-civil commitment; its

From the Floor:

"I have had witnesses say to me, 'I stayed here all day and testified and the person was found guilty and sentenced to probation.' Several months ago that same person was in and sentenced to probation. So now, probation upon probation, and especially the young people. They get—gosh, they treat it like a game. How much probation did you get? I got 12 months. I got 18 months. I got 24 months, I'm better than you. I think that probation is fine one time."

East County Town Meeting
Orange, MA
October 11, 1994

objective would be rehabilitative and not punitive. We also propose that the court, as a part of this experiment, be authorized to order participation by parents in a CHINS disposition. Defiance by the parents of such orders could result in contempt orders with a penalty of fines by way of dollar amounts or community service. In addition, a care and protection petition in certain cases would be an appropriate response to CHINS parents who refuse to participate in court-ordered family services.

Once again, this proposal concretely responds to the ideas and the criticisms generated at the Town Meetings and other forums held throughout the county. Many people repeatedly criticized the weakness of the court and expressed the view that effective authority of the court was absolutely necessary if true intervention and rehabilitation were going to be the aim of CHINS proceedings. Otherwise, based upon the sentiments of many people with years of painful personal experiences, CHINS (and juvenile delinquency) proceedings are often worse than merely a vacuous waste of resources; they are a lost opportunity that leaves the juvenile in a worse position than before. They are worse off because juveniles come away cynical, frustrated and disillusioned.

Many parents and others believe that juveniles are acting out in a search for structure, discipline and guidance yet they come away from the juvenile justice system angry and confused. Having been trained that there is no accountability for their behavior, many juveniles spiral in a downward progression until they become adult offenders who eventually reach our jails and prisons. The critical issue is not simply whether a juvenile is deprived of liberty, although such interests are clearly implicated. The true issue is whether juveniles, and incidentally their family members, are by virtue of their circumstances "in need of services." Often, juveniles at this point desire the structure, the authority, and the "parens patriae" assistance of the community, as expressed through the authority of the court. It is inconsistent to assume that juveniles are incompetent to be wrongdoers while at the same time treat them as if they have sufficient maturity to comply with rehabilitative court orders. Meaningful assistance to our juvenile population will be given only when the court has the authority to impart to them accountability and a set of values that is necessary to their sound personal and character development.

From the Floor:

"My feeling is, when we bring our children into the juvenile system here, it is generally on a CHINS petition that they are first appearing in this Court. They have chosen to be here, as far as I can tell. My view is, they have made the choice to be here. I think as parents we have all run out of options. We have tried our best to keep our children out of the court system. When they get here, they choose to be here. The problem we have when we get them here, I think, the consequences for their actions come way too late. I think the consequences for their behavior and their actions need to come a lot sooner, not the four or five times they are brought before the judge, but the first time they are brought before the judge."

East County Town Meeting
Orange, MA
October 11, 1994

Commentary for Proposal 2 (Open Proceedings): Under current law, juvenile delinquency hearings are closed to the public. This approach manifests a philosophy of jurisprudence that originates from

community values which hold that juveniles by their very nature are incapable of criminal behavior. Instead of guilt or innocence, juveniles are determined to be either delinquent or not delinquent. In either case, the theory holds that the juvenile should be spared the humiliation of a public trial since it is the system's intent to modify the juvenile's behavior before he or she becomes an adult.

It is our belief that this theory of behavior modification ignores a key component of sentencing—general deterrence. Our examination reveals that there is very little specific or actual deterrence in our present juvenile justice system by reason of sentencing outcome or disposition in delinquency cases. Moreover, because of the closed sessions, the general deterrence function gained by public community and peer scrutiny is missing. In many respects, because of the way in which juvenile proceedings are currently provided in courthouses in Franklin County (and elsewhere for that matter) whereby juveniles both miss school and congregate in the hallways of the courthouse, the claimed confidentiality for the juvenile population is yet again no more than a further symptom of the dysfunctional illusion and dishonesty present in our juvenile justice system. Open proceedings as proposed certainly will make the juvenile court a less inviting place to visit and will also have the effect of reinforcing accountability for one's actions. However, such a pilot program should also authorize a judge to close the proceedings if he or she makes specific findings that the privacy interests of a juvenile or a witness outweigh the community's and the juvenile's interest in public proceedings.

In conclusion, the Task Force recognizes that these proposed changes in the juvenile justice system contemplate a fundamental change in how juveniles are treated. It is imperative that early intervention be a central theme to juvenile justice. In those cases in which diversion before formal prosecution is warranted, the juvenile's underlying needs can be addressed. In those cases in which an alternative sentence and supervision by the Community Justice Diversion Board are warranted after adjudication, a support system will be available. Finally, in those cases in which custody is appropriate, a definite term of custody is certain. These proposals will require pilot legislative approval as well as authorization from the Chief Justice for Administration and Management and the respective Trial Court Chief Justices. While they contemplate a fundamental departure from traditional notions of juvenile justice, the Task Force is convinced, particularly in light of the compelling community demand for such approaches and the experience of the trial court judges, probation officers, and others involved in the delivery of family and juvenile justice at the community level with whom these proposals originate, that they are sound and worthy of a pilot project experiment. Given the inherent manageability

From the Floor:

"I have an issue about CHINS petitions in the courtroom. I think the arbitrary assigning of numbers, which aren't numerically followed, is confusing. I remember one specific incident when I was giving a school report about a student and had to leave to use the facilities, came back, and I tried to find out if my number was called, and nobody could help me. And it was really a short amount of time. But the case had gone in, the case came out, the student totally misrepresented what I would have said in the courtroom, and I stayed there until five o'clock and I could not find out if the case had gone in."

South County Town Meeting
South Deerfield, MA
November 3, 1994

of size in Franklin County and the already existing supporting community consensus, they can be implemented with minimal resources. In turn, the outcome of such experimentation would be useful and relevant to other communities throughout the Commonwealth who, if asked, would no doubt, express similar desires for change.

"What you see here is a road map to the next generation of crime. Unless we act now to stop young people from choosing a life of violence and crime, the beginning of the 21st century could bring levels of violent crime to our community that far exceed what we have experienced."

Remarks of Attorney General Janet Reno in response to the report of the Justice Department's Office of Juvenile Justice and Delinquency Prevention, released on September 7, 1995, indicating that between 1983 and 1992 juvenile arrests for major violent crimes grew from 83,400 to 129,600.

6. Appropriate Dispute Resolution

Proposal: **The Task Force proposes that the Futures Lab Implementation Council create a Franklin County laboratory project for Appropriate Dispute Resolution of civil cases. The project will establish a mandatory screening process for civil case filings, and it will create dispute resolution options for litigants in Franklin County Superior Court, Probate, Juvenile and District Court in Greenfield and Orange. From this project, a triage/intake assessment function will eventually emerge where cases are evaluated before and at the time of filing for appropriate dispute option referral and management.**

Commentary: This Task Force proposal stems from our belief, and from frequent comments from the community at Town Meetings and in working groups, that there exist multiple alternatives to the traditional trial for dispute resolution, that each dispute should be resolved by the option or series of options which is appropriate to its particular issues and to the particular disputants, and that the justice system is the proper setting to offer all these services. In so doing, we depart from the conventional view that an adversarial trial is the principal service of our justice system as well as the primary method of dispute resolution. We proceed in this approach by rejecting the view that all methods of dispute resolution other than an adversarial trial are "alternative." For this reason, this proposal calls instead for the creation of an appropriate dispute resolution project.

We propose a mandatory screening pilot project for civil cases in the Superior, Probate and Family, Juvenile and District courts which will produce a determination of the most appropriate dispute resolution procedure for each screened case.

Specifically, the operational objective will be to establish a screening process that will be mandatory, except where otherwise waived by a judge, for each civil case filed in each of the Superior, Probate and Family, Juvenile and District courts. Litigants and their counsel, if any, will be required to attend. Although referrals to mediation may be mandatory, no settlement agreement will be forthcoming except by voluntary consent of the parties. Under no circumstances will any party, as a result of ADR screening or referral, forego a right to trial before a judge or jury as currently provided by constitution or statute. In cases where it is clear at the outset that the appropriate method of dispute

From the Floor:

"This is really a wonderful opportunity to look at the justice system in this way, and since it's such a rare opportunity, I wanted to take a step back and take a longer view at it because I probably will never get a chance to do this again.

"I work in conflict resolution and mediation, and I know you're probably well aware of the mediation and conflict resolution especially in cases—it's pretty clear in cases of divorce. I've had cases that began as divorce cases and ended up in reconciliation because it was the first time people could sit down and talk.

"Other times when the divorce goes through, it's beneficial for the children to have parents work cooperatively."

West County Town Meeting
Shelburne Falls, MA
October 26, 1994

resolution for a particular case is the traditional trial, litigants may by motion, prior to the screening process, request a court-approved "opt out" of the ADR screening process.

Court referrals for dispute resolution services will include referral for legal consultation or representation, case evaluation, case management, case settlement conferences, and mediation. With consent of the parties, cases will also be referred to arbitration, mediation/arbitration, mini-trial, and summary jury trial. These services will be provided by a pool of qualified neutrals who, except for the services currently offered by the Family Service Officers of the Probate and Family Court,[19] are not employees of the court. The pool will include public and private trained and qualified mediators, professional arbitrators, and others who meet the qualifications and standards established by statute, or as established by the project with approval of the Judicial Administration Team acting with approval of the Supreme Judicial Court, the Chief Justice for Administration and Management, and the Trial Court Chief Justices. The ADR project will be coordinated and in conformity with the work of the Standing Committee on Dispute Resolution.

Intervention at an early stage of the proceedings reduces the cost, time and complexity of litigation in our courts and promotes greater satisfaction on the part of litigants and their attorneys. At each of the Town Meetings held by the Task Force, members of the community repeatedly expressed support for mediation as a dispute resolution option that should be provided under the leadership of the court. Many citizens expressed the view that when disputants craft their own settlements, they feel competent and powerful because they remain in charge of important events in their own lives. In the process, each person is helped to understand the dispute from the other's point of view, which frees up both people to create solutions which are designed to meet their mutual needs. Many believe that the mediation process is less expensive, quicker, and less traumatic in both the short and the long run. Disputants who are able to design their own solutions leave the process with a commitment to their agreement and a willingness to make it work and with less likelihood of returning to court in the future when the traditional court-ordered solution proves unworkable.

At the present time, alternative dispute resolution is truly alternative within the traditional legal system in Franklin County, although

From the Floor (responding to the question "What kind of miracles have you seen with mediation?"): "Feuds within families. Long-running, generational family feuds. Feuds between neighbors, things where—and some small claims cases which actually fell into the same category—where a lot of the issue was pride, feelings of rejection, very intense emotional issues rather than legal issues. And there are a substantial number of those cases that I saw come through the Orange District Court."

East County Town Meeting
Orange, MA
October 11, 1994

[19]As part of the implementation of this Appropriate Dispute Resolution proposal, a special panel should be formed to examine *Achieving Equity: Recommendations for Dispute Intervention Practice in the Probate and Family Court*, prepared in 1995 by the Supreme Judicial Court Committee for Gender Equality. Our effort should avail itself of these recommendations in order to adapt them where applicable to current practice in Franklin County.

there are small programs in some courts in Franklin County. These programs are primarily for evictions and small claims, and all are dependent upon volunteers from the community or upon staff who provide excellent services and whose low salaries are paid by a patchwork of grants which require annual reapplication. Most courts have little access to any formal dispute resolution method except trial.

The Appropriate Dispute Resolution Working Group has proposed the creation of a private nonprofit corporation which would be "annexed" to the court and would administer the Appropriate Dispute Resolution Project. We recognize that funding for this project will be a threshold issue, and we support the exploration of the nonprofit model as proposed by the Appropriate Dispute Resolution Working Group, although existing resources will also be available for many aspects of the implementation of this proposal. However, in the final analysis, it will be necessary to secure sufficient resources and funding in order for this project to be operational. We will be seeking a legislative appropriation in the amount of $50,000 for FY 1997 for purchase of ADR services for litigants who qualify as indigent or marginally indigent. In addition, we believe that State Justice Institute funding, if awarded, for the Family, Children and Juvenile Delay Reduction project will also contribute to the funding of ADR services as contemplated in this proposal.

Once an Appropriate Dispute Resolution project with a strong screening and referral component is under way in Franklin County, the next phase will include the development of an intake assessment/triage function where trial court employees, under the auspices of the local Judicial Administration Team, will actively assist litigants and counsel in efficient case management and resolution, and ADR referral. Such a triage feature was proposed by several of the working groups and was suggested by many at the Town Meetings, and at our December 3, 1994, workshop. As conceived by the ADR Working Group, the screening process will also be available to potential litigants on a voluntary basis prior to filing their case in court. Triage also finds substantial support in *Reinventing Justice: 2022* where such a function was discussed in the context of Comprehensive Justice Centers:

> The concept behind the Comprehensive Justice Center is to provide from a single location access to a wide range of dispute resolution options, both before and after a case is filed.... As quickly as a dispute entered a Comprehensive Justice Center it would be evaluated and redirected. Some would remain in-house, sent to judges, mediators, arbitrators, and min-trial presiders. Others would be sent out

From the Floor:

"I'm a resident of Greenfield and business person. I would echo what she says, but also from the business side. I think it's unfair to both parties to have to pursue an issue for a year. I think we could easily handle most of these cases with some other dispute resolution mechanism, arbitration of some kind or whatever, binding arbitration."

North County Town Meeting
Greenfield, MA
November 17, 1994

to social service agencies and a range of nonprofit and commercial dispute resolution providers.[20]

Such a triage phase would be implemented and operate within existing trial court departments and would function in a manner not unlike the Family, Children, and Juvenile Justice Delay Reduction Project.

From the Floor:

"I think that some of these, what I call frivolous, lawsuits could possibly be resolved with dispute resolution or mediation or something rather than clogging up the courts with all of this nonsense. I really do believe that people think they are going to go to court and it's like a big lottery, they get all this money and retire, or go off to the Caribbean or something."

South County Town Meeting
South Deerfield, MA
November 3, 1994

[20] *Op. Cit.*, p. 13. The triage project would also examine and be informed by the preliminary and final reports of the National Center for State Courts entitled "An Evaluation of the Massachusetts Trial Court Triage Project," dated August, 1989, and December 30, 1990, respectively.

7. Substance Abuse

Proposal: **The Task Force proposes the creation of a Franklin County Court and Community Substance Abuse Intervention Project aimed at identification and treatment of individuals for whom substance abuse is a factor in their presence before the court.**

Commentary: The Final Report of the Massachusetts Supreme Judicial Court Substance Abuse Project Task Force, dated March 1995, entitled, *A Matter of Just Treatment: Substance Abuse and the Courts* reveals that substance abuse not only drives the criminal caseload in our courts but is also a substantial risk factor in many civil filings as well as juvenile cases, CHINS (children in need of services) applications, care and protection (child abuse and neglect) cases, termination of parental rights, child custody disputes, and others.[21]

Many of the people who attended the Town Meetings as well as those who became involved in other forums expressed support for alternative and rehabilitative sanctions particularly in the area of substance abuse, and especially for the at-risk juvenile population. Several of the proposals to the Task Force emphasize treatment-oriented sanctions for offenders as well as early identification and intervention for individuals identified as at risk for substance abuse.

The Franklin County courts have added criminal and juvenile caseload jurisdiction over cases from the Town of Athol (in Worcester County) which has a population of 11,451. When added to the population of Franklin County, the total population base for this project is 81,543. Examination of Trial Court statistics for the courts of Franklin County for criminal and certain family law (civil) types of case filings reveals that in 1994, there were over 4,900 separate cases filed where a party is either a substance abuser or at risk for the onset of substance abuse. These statistics are based upon the Greenfield and Orange District courts, including juvenile sessions, the Probate and Family Court, and the Superior Court, using case categories as determined in the *Just Treatment* report. These cases include criminal offenses overtly involving substance abuse such as operating under the influence of alcohol, drug possession and drug distribution. Also included in these statistics are many other instances of criminal behavior with a sub-

[21]Supreme Judicial Court Substance Abuse Project Task Force. *A Matter of Just Treatment: Substance Abuse and the Courts*, March, 1995, p. 6.

"A 1992 survey among adolescents by the Greater Franklin County Community Partnership to Prevent Alcohol and Other Drug Abuse found high rates of alcohol and other drug abuse among Franklin County teens in grades eight through twelve. Ninety percent of the surveyed adolescents reported using alcohol on one or more occasion within the past year, with the four major drugs of choice described as alcohol, cigarettes, marijuana and inhalants. Rates of use of these four drugs were higher for Franklin County twelfth graders than national rates, when assessing drug use within the past thirty days. Over 90% of the students

(continued, next page)

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responding said they have had some drug education course work, films or lectures in school.

Of great concern is the age at which Franklin County youths begin using alcohol and other drugs. The 1992 survey found that many respondents began drinking and smoking cigarettes prior to the end of seventh grade, began abusing marijuana by the end of the tenth grade, and that first use of other illicit drugs and substances can occur as early as fifth grade."

A Report on the Health Status of Franklin County Children. April 1994, Pp. 11–12. Funded through a grant from the Jessie B. Cox Charitable Trust. Prepared by Laura Brewer, Friends of Children,Northampton, MA, and presented to the community by Friends of Children Inc. and The Franklin Child Health Planning Committee.

stance abuse risk factor and include civil filings for cases involving juvenile offenders, care and protection petitions, petitions to terminate parental rights (adoptions), CHINS applications, and custody disputes where research reveals a strong likelihood of an association between substance abuse and the factual circumstances underlying the case. It is the conclusion of the Substance Abuse Task Force in the *Just Treatment* report that these types of cases have a 60% to 80% risk factor for substance abuse. In raw numbers, applying these percentages (e.g., 60% to 80%) to the 4,900 cases, it would appear that in approximately 2,940 to 3,920 of these filings in Franklin County in 1994, substance abuse is implicated as a substantial risk factor.

We propose the development of an innovative and unique community-based court-connected strategy aimed at the substance abuser appearing before the court (the primary target), but our proposal will also be clearly focused to achieve the "ultimate prevention and ultimate recovery" of individuals in the community who are at high risk for substance abuse. This proposal is in keeping with and in furtherance of the "Policy Statement on Substance Abuse" adopted by the Supreme Judicial Court on March 30, 1995, contained in Recommendation Number 1 of the *Just Treatment* report.

The proposed project will operate as follows: Using the trial court as an identifier, it will determine, as a result of information presented in the course of court proceedings, if a litigant (a primary target) has a substance abuse problem that is in whole or in substantial part a contributing dynamic in the matter before the court. Once such a primary target is so identified, the court would, in criminal cases, use its authority as a condition of pretrial release and/or at sentencing to order a defendant's participation in the Franklin County Court and Community Substance Abuse Intervention Project. In the high risk civil cases that will be the subject of this project (e.g., juvenile cases, care and protection/parental termination cases, custody disputes, or similar matters), the court will direct the primary target to participate in the Substance Abuse Project by referral, or by an order which conditions custody, visitation, etc., on identified individuals' participation in the Project.

Any party/primary target who is directed to the Substance Abuse Project by the court will be assessed by a qualified professional to determine if there is a need for substance abuse services. If the assessment confirms that the person referred does indeed have a substance abuse problem that is in whole or in substantial part a contributing cause in the matter before the court, then a determination will be made as to the type of services best suited for the situation. In addition, this assessment will seek to offer services to the array of family members (biological family, step-family or family members of choice) who, by

reason of a family or environmental link, or both, are at risk for the onset of substance abuse at some point in their lives. These individuals (the "secondary tier") will be provided with information concerning services available to them, on a purely voluntary basis.

In addition to making referrals for treatment services for primary targets, the Task Force, along with stakeholders including local treatment providers, the District Attorney, local courts and probation offices, school officials, the Franklin County Commissioners, and other interested community participants, will form a coalition to design and plan for the coordination of a community-based array of prevention and recovery programs, projects and services for delivery on a voluntary basis to the secondary tier of individuals. With further development and planning, these services could be made available through the local public schools, local public health programs, local treatment providers and new community-based projects and services. The innovation of such a strong and concrete court and community-connected strategy, particularly in light of the "Policy Statement on Substance Abuse" adopted by the Supreme Judicial Court, will assist us in locating start-up grant or other funding for this project.

Because this secondary tier includes children, teens, spouses and partners who, even if not actively using drugs or alcohol, are genetically or environmentally symptomatic, and because this group is at high risk for progression to overt substance abuse symptomatology, a tangible strategy aimed at education of these individuals and voluntary intervention with them will be the most innovative and potentially effective aspect of this proposal. In other words, by using the courts as an educator, we can direct services to individuals, especially juveniles, who are at high risk for the onset of substance abuse and offer assistance at an early stage. Alcoholism/substance abuse is a family disease and does not exist in a vacuum. For this reason, our model simultaneously undertakes to educate this secondary tier, to provide these individuals with knowledge of prevention and recovery strategies and services available to assist them from becoming active substance abusers and to assist them with family members who are or may become substance abusers.

"Franklin County health and human service providers have expressed concern over the growing incidence and severity of mental and emotional health needs in children and adolescents. They point to the high rates of child maltreatment with particular concern over the County ranking first in percentage of child sexual abuse cases. Related to this reported rise in mental and emotional health needs are high rates of alcohol and drug abuse by Franklin County children and youth."

A Report on the Health Status of Franklin County Children, April 1994, p. 13

8. Community Justice Diversion Board

Proposal: **The Task Force proposes the creation of a Community Justice Diversion Board.**

Commentary: A group of concerned citizens, with appropriate professional representatives, will be appointed by the Judicial Administration Team in consultation with the Court and Community Education and Outreach Board to serve on the Community Justice Diversion Board. This Board will have several functions. First, the Diversion Board will be available when the office of the District Attorney identifies cases or circumstances where, in the opinion of the District Attorney, the interests of community justice warrant the diversion of a juvenile offender from the criminal process before or after the formal initiation of delinquency proceedings. Second, the Diversion Board will accept referrals for supervision of adult criminal cases after disposition from the court as part of an alternative sentence, a disposition pursuant to G.L.c. 276, § 87 or other sentence imposed by the court. Third, the Diversion Board will also serve to assist families involved in the justice process by offering mentor, support, or other peer assistance in matters involving CHINS cases, care and protection cases, custody, visitation and other similar situations. Cases in this category will be by referral from the court, attorneys, social service agencies, school officials, law enforcement officials or other interested individuals.

We are inspired in this recommendation by the community sentiment frequently expressed at the Town Meetings and other forums that "it takes a whole village to raise a child." In particular, many citizens who became involved in the Family and Juvenile Justice Working Group spent many hours following Reinventing Justice Saturday analyzing and discussing the problems originating in the family and the community that come before our courts. It was the consensus of this group that there are many situations where the community can assist these families and individuals as well as the court system by drawing upon the community as a caring and supportive resource. We believe that there are many individuals in our community who are willing, interested and qualified to fulfill this need and function.

Members of the Community Justice Diversion Board will be selected to serve based upon qualifications that will include background, education and temperament. Members will serve on a *pro bono* basis,

From the Floor:
"I think we have to be careful not to try to cure our social problems with the court systems, our frustrations with our social problems. I don't feel like the Court is where we should be solving it."
Next speaker:
"But if the Court had a front door, an assessment area at the door, maybe we could refer things out that shouldn't belong in the courts."

East County Town Meeting
Orange, MA
October 11, 1994

to participate in court-approved training programs and observe court-mandated protocols. This Diversion Board will be established by the Court and Community Education and Outreach Board and will be accountable to the Judicial Administration Team who will approve all projects and programs utilized by the Diversion Board.

The potential for the effective intervention by a Community Justice Diversion Board is substantial. In delinquency proceedings,[22] a diverted individual will, in most circumstances, if successful in the diversion, never go to court. Rather, he or she will meet with the Diversion Board, and appropriate action will then be taken. The Diversion Board will, depending upon the case, assign the juvenile to community service, mediation or any other appropriate program that fits the needs of the individual. In appropriate cases, the Diversion Board will require restitution or other direct services to the victim (i.e., repair of a broken mailbox, etc.). In adult criminal cases, referral by the parties to the Diversion Board of any case recommended for disposition pursuant to G.L. c. 276, § 87 will require the approval of the court.

In all circumstances, once an agreement to divert is reached between the District Attorney and the juvenile, or in adult criminal cases after disposition from the court as part of an alternative sentence, a disposition pursuant to G.L. c. 276, § 87 or other sentence imposed by the court, any case referred to the Diversion Board will be screened for acceptance by the Diversion Board. If accepted,[23] a written diversion agreement will be signed by the individual and the Diversion Board. Any delinquency case diverted prior to formal court proceeding will first require approval by the District Attorney. Delinquency offenses for which diversion might be appropriate might likely include the following offenses: drug/alcohol possession, trespass, disorderly conduct, shoplifting and minor motor vehicle offenses. Any individual will have the right to counsel and if otherwise eligible for court appointed counsel, counsel will be appointed unless waived. In juvenile cases, the consent and signature of parents will be required on diversion agreements where a juvenile is a party.

In CHINS cases, proceedings will be stayed by the court while a CHINS juvenile and family members (where appropriate) are diverted through a diversion agreement. Likewise, proceedings in care and protection proceedings will be stayed while a family enters into a diversion referral.

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[22]In all delinquency cases, the initial decision to divert a case from formal prosecution will rest with the District Attorney.

[23]The Diversion Board will have the discretion to decline any referral it deemed appropriate.

From the Floor:

"I want to say that I think one way that this Task Force could really make a positive benefit would be to really change the way that community service is given out, and to change—I guess this would fall under 'alternative sentencing' or something. But as someone who used to try to hook up high-risk kids with community service jobs, I think it's just incredible what that can do for somebody, and how you can probably short-circuit a whole bunch of coming back to court, if, instead of cleaning a cop's car for community service, they were actually out in the community doing something that felt useful, and doing something where they were also seen. On the one hand, people in the community would say: 'Well, this is a kid who has been sentenced to do this, and look, he's doing a great job and he's helping do this,' or—

(continued, next page)

The Community Justice Diversion Board may find it appropriate to assign a case monitor to particular cases and to schedule regular review of cases. The introduction of a model program will require up-front planning and development in order to assure the necessary level of quality control.

The Task Force believes that a significant impact can be made in the manner in which juvenile, adult, and family cases are processed by identifying certain cases that should be diverted from the formal court system. By diverting cases both prior to and after case initiation, those cases will be dealt with in a manner different from those that are handled in the traditional manner. This will free limited judicial resources to focus on those more serious cases which are the subject of more complicated and time-consuming proceedings. Equally, if not more important, this project will improve the quality of life of those members of our community who will benefit by a constructive diversion tract which in turn will improve the overall quality of community life for the citizens of Franklin County.

(continued from previous page)

whatever he's doing, there would be a positive feeling from the community toward the kid, and also from the—say, it's a kid—I mean this is true for adults too. But in general, I think that more creative use of community service could give people all kinds of skills and experiences that would lead them to not come back.... If there were some way that you could hold forums for judges and lawyers, or where anybody who would be interested in having someone do community service could come and talk about it, something like that would be helpful."

South County Town Meeting
South Deerfield, MA
November 3, 1994

9. Child Care Services

Proposal: **The Task Force proposes the creation of a child care facility that will serve the child care needs of jurors, trial court employees, witnesses and litigants, as well as a visitation site where supervised or controlled visits are provided when the safety and welfare of children are an issue in divorce, CHINS, care and protection, or other custody proceedings.**

Commentary: Task Force members, attendees at Town Meetings, and working group members voiced a need for child care facilities that would serve the family interests of employees, jurors and witnesses, as well as the interests of families affected by domestic and family violence and abuse. For example, one of the most frequent reasons given for a juror's inability to serve is the lack of child care for the potential juror's children, and this is most typically true of female jurors (although some men also fall into this category). While many jurors are eager to serve, the obligation to make alternative child care provisions can create prohibitive barriers to such service, particularly where a case extends beyond one day. Jurors who have child care responsibility are thus in the predicament of having to choose between providing for their children or sitting on a jury. If on-site child care is provided to jurors, then the exclusion of parents with child care difficulties will be avoided.

A child care center should be established in the Franklin County Courthouse. Making this available to all courthouse employees would result in their children forming the basis for continuing need for the center, with the children of others temporarily in the court supplementing the daily employee enrollment. Such a facility will be available to provide child care services to victims and witnesses participating in court proceedings, as one example, a service which is necessary to protect young children from courtoom proceedings where often there are graphic descriptions of violence, abuse, sexual assault and similar events. All too frequently, children enter the court and remain throughout the course of proceedings where horrific events are described, events which have often occurred in the presence of the very child who is listening, or which occurred in that child's household, or to members of that child's family. Judges, court clerks, advocates and others have, throughout the Task Force's information-gathering process, expressed deep concern for the welfare of children who appear in court with parents and are exposed to such troubling experiences.

To meet yet another need, the members of the Violence and Abuse Working Group, relying in part on the 1989 *Report of the Gender*

From the Floor:

"There are people there who have to bring their children, who spend all day sitting there, seeing every person who comes through the courthouse looking at them, know they are there, know why they are there. Those of us who work there, you know, go through, so that we don't have to see anybody, so that nobody has to be seen by us, so that they don't have to—that there isn't this awkward moment."

South County Town Meeting
South Deerfield, MA
November 3, 1994

Bias Study of the Supreme Judicial Court, proposed the creation of a Franklin County Visitation Center where supervised visits could occur. Currently no such facility is available, even when a judge has limited the visitation of a parent or ordered that visits be supervised. Referrals to the visitation facility would be made by judges, family service officers, DSS workers and others.

Like many of the other proposals in this report, child care services as described will require funding and further planning and refinement in order to establish requisite facilities, staffing, protocols and controls. Existing programs elsewhere in the Commonwealth, as well as model program materials, are available for further examination and research.[24]

"As a judge,... I had become accustomed to scanning the courtroom in the midst of a particularly gruesome piece of testimony, only to discover, to my horror, a child (or several) seated in the courtroom, nestled into the corner of its mother's arm, listening in rapt attention as a trembling, weeping victim described ... excrutiating details...."

Hon. Julian T. Houston, Associate Justice of the Superior Court of Massachusetts, June 1, 1995, in the Foreword to **CourtCare. Planning Child Care for the Courts.**

[24]See, e.g., Lucy Hudson, *CourtCare. Planning Child Care for the Courts*, 2nd ed. edited by Alice Leary Reitz, A Publication of the Massachusetts Trial Court Child Care Project, 1995.

10. Family, Children, and Juvenile Justice Delay Reduction

Proposal: **The Task Force proposes the establishment of a Family, Children, and Juvenile Justice Delay Reduction Project.**

Commentary: In family law matters, Franklin County residents have experienced confusion and frustration due to barriers to access to the courts during emergencies and duplication and waste of scarce judicial resources. A significant concern, as expressed at the Town Meetings, is the serious adverse effect on the best interests of children which results from the protracted amount of time required to produce final court orders that provide permanency to children. Franklin County's 27 towns are served by court locations in Orange and Greenfield, Massachusetts. There is a District Court and Juvenile Court in Orange, and a District, Probate and Family, Juvenile, and Superior court in Greenfield. Family law cases are not confined to a single court and, thus, various aspects of family matters may be heard in Probate and Family Court, Juvenile Court or District Court.

The Delay Reduction Project has two main components. The first is the consolidation, before one of the project judges at each Franklin County location, of all proceedings pending in the Trial Court involving individual families and their children. This judge would assume active case management and would resolve cases in an expedited manner. All cases in any designated Trial Court department involving a single family, including CHINS cases, juvenile delinquency, divorce, custody, visitation, guardianship, paternity and any other related litigation, will be referred to the Justice Delay Reduction Project for consolidation and case management by one of the project judges. In addition, care and protection petitions and termination of parental rights cases will be screened early on for consolidation with related cases, case management and assignment to an accelerated litigation track. Furthermore, the project will explore the feasibility of assigning appropriate care and protection cases to a mediation track.

The second component of the Delay Reduction Project is the designation of the Orange District Court Judge, on emergency basis, to issue visitation or more complete domestic relations temporary orders in domestic violence cases before the Orange Court. Without this designation, these individuals must engage in a second hearing process in the Probate Court in Greenfield, Fitchburg, or Worcester, which cannot be reached by public transportation.

From the Floor:

"I'm a volunteer coordinator for the CASA Program which is new to Franklin County and old to other parts of the state.... The children don't have any privacy.... It's a scary place to be, stuck in a hallway with lots of other kids, with lawyers, with grown-ups, everybody flustered, running around, trying to talk...."

Moderator to speaker:

"Other than privacy, what else makes it scary for kids and families?"

Speaker:

"Probably a lack of continuity. They may come in and see the judge and come back six months later with a whole different scenario, different judge. The lack of continuity is very difficult for kids to deal with."

West County Town Meeting
Shelburne Falls, MA
October 26, 1994

With the availability of FAX machines and other modern technologies, an important and worthwhile service to families can be realized by allowing Orange District Court judges to act on temporary orders in domestic cases, which are under the jurisdiction of another court.

Both aspects of this project will be carried out in the following stages. First, there will be a planning process to bring together the participants in the family law system and then to develop a detailed plan of action. With funding through a State Justice Institute grant, if awarded,[25] a project coordinator will be hired who will seek input from the community through a public advisory committee, and from judges, the Register of Probate, Clerk/Magistrates, probation officers and other employees from the respective court departments who would be involved in this project. The coordinator will also address the concerns of the Chief Justice of the District, Juvenile, and Probate and Family courts and shall act at the direction of the project judges in performance of all duties. This planning process will address a variety of management issues, including criteria for determining how to gain the benefits of case consolidation without creating an unwieldy degree of complexity; the feasibility of using mediation in care and protection cases; and implications of the project for judicial and staff resources.

The next stage of the project will be an educational phase. Arrangements will be made with the providers of education to the judicial branch to design curriculum and implement training and education for judicial branch employees. Curriculum and training materials will be developed and provided to social workers and attorneys of the state agencies involved in child welfare, and to attorneys who serve as court-appointed counsel to children and parents in child welfare cases. Public education projects will be designed and implemented.

The final stage will be implementation of the project, including approval and implementation of necessary administrative changes in the court system.

"Every responding [school] nurse felt emotional problems are increasing in number and severity in the children they are seeing in their schools.... Many felt the schools need more personnel trained to deal with these issues, as well as more information on where in the community they can refer children in need. Factors which the respondents feel are influencing this perceived increase in emotional problems include: unemployment, increases in chemical use and abuse in both the children and their parents, children of alcoholics, latch-key children, and child abuse and neglect."

Report on the Health Status of Franklin County Children, April 1994, p. 33.

[25]The use of the Orange District Court for emergency domestic relations orders would perhaps remain a feasible proposal even without SJI funding if other means of planning and education are located.

11. Elimination of Civil Case *De Novo* Trials

Proposal: **The Task Force proposes a pilot project to establish a one-trial system for civil cases in Franklin County.**

Commentary: This proposal addresses the problem of duplicated efforts, procedures and roles of the trial court departments present in the current system of trial *de novo* in civil and summary process cases. As a result of our information-gathering process, it became clear that the public has little tolerance for the time needed to process cases in our courts. They are less tolerant of anachronistic practices that duplicate effort, waste resources and generate tremendous expense in terms of legal fees and related litigation costs. They cynically view these circumstances as collusively driven by the bar and the court system as a means of serving the interests of the lawyers at the expense of the consumers. We believe that the elimination of *de novo* in civil cases and summary process cases will expedite the process of case resolution while eliminating duplicated efforts. The recent legislative elimination of trial *de novo* in District Court criminal cases by our legislature has met with great success throughout the Commonwealth and we believe, as do many others, that there does not appear to be any reason why the same success cannot be achieved with regard to civil cases.

Currently, civil cases operate under the "remand and removal" system. A plaintiff can file a civil claim either in Superior Court or in District Court. A case filed in the Superior Court will be remanded to the District Court unless there is a reasonable likelihood that the plaintiff's recovery will exceed $25,000.

A defendant can remove to the Superior Court a case filed in the District Court where the plaintiff seeks more than $25,000. If there is a reasonable likelihood that the plaintiff's recovery will exceed $25,000, the case will then be tried in the Superior Court. But, if the likely recovery will be less than $25,000, the case will be remanded back to the District Court for a bench trial.

Under existing statutes, a judge in the District Court renders a decision on a civil case after a bench trial. A party that does not agree with the District Court decision can appeal to the Appellate Division of the District Court. Parties who have preserved their rights are entitled to an "appeal" to the Superior Court for a jury trial, even after the

From the Floor:

"I want to focus on civil cases. We've focused on criminal. The fact that civil cases take so long to get to court. I was involved in one that took five years to get to trial.... And all the thousands of dollars and hours of time to get to that point, to go to trial, to have a jury, to then have the judge dismiss the jury and make the decision himself which was to throw out the case, which should have happened five years before. I feel there's a lot of civil cases that need to be decided right up front when it's filed before that much time and money is expended."

West County Town Meeting
Shelburne Falls, MA
October 26, 1994

Appellate Division has ruled against them. A party can appeal an adverse Superior Court judgment to the Appeals Court and ultimately the Supreme Judicial Court.

We propose implementation in Franklin County of a pilot project modeled on the Norfolk County experiment proposed for commencement on July 1, 1996. Under the one-trial system, the District Court would conduct jury of six trials for civil cases with a value of less than $25,000.

Under the Norfolk County one-trial proposal, a case filed in the Superior Court that is likely to yield less than $25,000 would be dismissed, rather than be remanded. The plaintiff would then have to refile the case in the District Court.[26] The establishment of a one-trial system for civil cases, as in the Norfolk County experiment would also eliminate *de novo* appeals in Summary Process cases. This will improve the process that was created to secure the just, speedy and inexpensive determination of summary process actions.

[26]We propose, in contrast to the legislation for the Norfolk project, that it is far more in keeping with the object of achieving simplicity and expense reduction to provide that the decision of the Superior Court on the value of the case be decided without single justice review in the Appeals Court, and instead of dismissal, cases wrongly filed would be administratively transferred. This would avoid added filing fees, legal expense and delay.

12. Navigating Justice

Proposal: **The Task Force proposes the establishment of a Navigating Justice Project aimed at assisting those who use the court system without benefit of counsel.[27]**

Commentary: At Town Meetings, many citizens of Franklin County spoke of the need for public availability of educational videotape materials which would help them to better understand the court system, its terminology and its processes. A growing number of people in Franklin County are unable to afford private legal services,[28] yet many of these people are also ineligible to receive free legal services due to restrictive income eligibility requirements of legal aid programs and agencies. Moreover, legal aid providers often are unable to help even those who do qualify for services because caseloads already exceed resources, or because continuing cutbacks in the funding of legal services programs limit the areas in which legal services to the poor can be provided on an individual basis. In addition, many proceedings, such as small claims, simply do not warrant the expense of retaining counsel.

All of the above contributes to a constantly increasing number of unrepresented individuals in the courts every day, asking court employees and judges for information and advice, particularly in the areas of family law, small claims and housing. And increasingly, those who need help do not speak English, generating even more confusion for litigants who are forced to navigate the judicial system on their own.

As a result of the rise in unrepresented litigants, judges are increasingly called upon to take an active role in helping unrepresented parties during court proceedings, yet many of these unrepresented

From the Floor:

"In 1994 with the amount of videotapes that we have and everything, wouldn't it be very possible to have a video library within the library and a few of the video machines with the T.V. attached to it and, if you have a specific case, if you're going to go to a jury trial of six, just have a cassette of that that you throw in for the terminology?"

West County Town Meeting
Shelburne Falls, MA
October 26, 1994

[27]This proposal is in no way intended to endorse the concept of *pro se* representation, nor to encourage those who use the court system to do so without benefit of counsel. The Navigating Justice Project is necessitated in part by the reality of *pro se* litigants in the courts, and the impact of *pro se* litigation on the fair and efficient functioning of the court system.

[28]Franklin County is not alone in this concern. "A May 26, 1994 article in *The Phoenix Gazette* reported that in 25% of the 84,000 cases filed in Maricopa County Superior Court in 1993, there was either no lawyer involved or only one party was represented. In the [Maricopa] county family court, where 24,000 divorce petitions were filed in 1993, almost two-thirds of the parties had no lawyer, a dramatic reduction from 1980 when roughly 75% of cases filed had counsel on both sides." Stephen P. Johnson for the American Bar Association, *Just Solutions: Seeking Innovation and Change in the American Justice System*, A Report on the American Bar Association's "Just Solutions" Conference and Initiative, 1994, p. 29.

parties, because of their lack of understanding of the judicial process, feel that they have been treated unfairly or inappropriately, or that they have not obtained a just result. Additionally, the time required by the judge, in the courtroom, to address the questions and confusion of the unrepresented litigant contributes to significant delay in the trial day as other litigants wait their turn to be heard. Ironically, while some people choose not to be represented because of the cost, or cannot afford the services of a lawyer, those who are represented sometimes pay more in legal fees because of the delay attributable to those who are unrepresented. In most cases, these unrepresented individuals can more effectively assist themselves if they have adequate educational resources available to them to better understand the process before they enter the courtroom.

The Navigating Justice Project aims to provide a resource library to those individuals who must proceed on their own in court. The resource library will consist of pamphlets, videotapes and instructional guides with forms for court proceedings in those areas with the highest incidence of unrepresented litigants such as small claims, landlord/tenant, divorce, child support, child custody and restraining orders. The materials will be made available at the county courthouses, the trial court law libraries, town libraries and other appropriate facilities, and for broadcast on community access cable television. The materials will cover substantive material for the named topic, general information about the court system and references for further information. They will be produced in English and Spanish.

A community education working group will be formed to refine the project's design and to monitor implementation of the project. This group will gather information on existing video resources, create new educational videos and programs, and seek financial support from various sources. If awarded, funding through a State Justice Institute grant will provide for a project coordinator to be hired who will work closely with the community education group in researching existing programs and program design. The coordinator will oversee the production of the videos and the preparation of the accompanying materials, drawing on court personnel, educators, attorneys and members of the public for advice and guidance.

Program materials will be developed in conjunction with Greenfield Community College which will provide technical services. The content of the videotapes will be approved by the Chief Justices of the appropriate Trial Court departments and the Judicial Administration Team. The coordinator will make arrangements for space at courthouses, libraries and other locations for the use of the project materials by the public. The public will be made aware of these resources through postings and public announcements, and by court personnel

From the Floor:

"As a small-business man, my experience with Court has been on the civil side, generally involving customers or tenants.... Then recently I've had some experience with [small claims]. It was different because it was a completely different style of action. But the thing that I found frustrating, besides coming in at nine o'clock and not getting heard until one o'clock, was that I had no idea of exactly what was going to happen—I mean the idea of small claims court, as I understand it, is it's something where you don't need to bring lawyers, you don't need to have the big trial. You're going to resolve a small dispute. And yet I had no idea what was going on.... I had no idea where I was

(continued, next page)

when individuals make contact with the court, either by telephone or in person. Project staff also will make the program known at local schools and will lead orientation sessions and mock trials for students.

Each instructional packet and each video workstation will include a form for users to comment on the usefulness of the project and on their opinions in general on the project. Once the project is operating, a survey will be taken of consumers, court personnel, judges, legal aid providers and other members of the bar regarding their views on the helpfulness, accuracy, relevance and effectiveness of the project, the effectiveness of community involvement in the planning process, and whether the project improves the quality of *pro se* proceedings and reduces the dependence of *pro se* litigants upon trial court employees and judges.

(Continued from previous page)

supposed to be, what I had to bring for evidence, how many copies of things, whether you needed true copies or not; witnesses, what my witnesses should be prepared to say, whether I should have them or not. I really felt I was thrown into this thing as shark bait. I was out there with no preparation.... I'd like to have some kind of booklet, instruction, videotape, or something provided that could tell me as a plaintiff what my responsibilities would have been, what the procedures would be like, and what I needed to bring; and for the defendant to do the same thing."

South County Town Meeting
South Deerfield, MA
November 3, 1994

Conclusion

Conclusion

This report represents the conclusion of the initial laboratory phase of the work of Franklin County Futures Lab Task Force. We are honored by the confidence and trust that have been reposed in us by Chief Justice Liacos, former Chief Justice Fenton and Chief Justice Irwin by their March, 1994 Order authorizing us to engage the court and the community in a process to forge collaboration and generate consensus for change and improvement in our justice system.

At the Town Meetings and at other forums, there were many more concerns raised by the community than are reflected in this report. In our view, the reinventing justice process will include implementation of the projects contained in this report, further development of concepts raised by the community at the Town Meetings that are not at this time the subject of a pilot proposal, and the formulation of additional pilot proposals that will be the product of the continuation of court and community dialogue.

Many of us on the Task Force and many in the community believe that if the work of the Franklin County Futures Lab Task Force ended here, we could claim with satisfaction that our laboratory discovery of a new process of court and community dialogue has made our effort a successful one. Our report and our pilot proposals represent the beginning of the next phase of work. We are proud of our accomplishments and those of the community, and we look forward with enthusiasm to the continuation of this exciting experiment in reinventing justice in Franklin County.

From the Floor:

"The court right now is like the old railroad station where you went in, you bought a ticket, you sat around for the train to come. What it needs to be is like the airline terminal where you go in, you get your ticket, and you get on a flight...."

South County Town Meeting
South Deerfield, MA
November 3, 1994

Appendix

Documents in the Appendix record the blossoming of a dialogue between the courts and the Franklin County communities, which, for the moment, has culminated with the preceding report. The emerging collaboration has grown in several stages, as follows:

- *First, with invitations to the community to engage in discussions about the justice system, the Franklin County Futures Lab Task Force was created and Town Meetings held in the Fall of 1994.*

Court Order Establishing the Franklin County Futures Lab Task Force ____ 63

Town Meeting Announcement ____ 65

"Justice for All Saturday" Invitation ____ 67

Letter of Greeting from Chief Justice Liacos ____ 69

- *Second, with the positive and energetic community response to the Town Meetings, interested court and community personnel volunteered to form working groups to address specific aspects of the justice system over several months, with clear guidelines to encourage productive meeting time.*

Small Group Action Plan ____ 71

Project Proposal Application ____ 73

Proposal Evaluation Criteria ____ 75

- *Third, Working Groups submitted proposals to the Task Force for its consideration. An executive summary of the proposals is included in the Appendix. The Task Force reviewed and discussed the proposals, coming to consensus about many (but not all) points, which then formed the basis for the Task Force's report,* Moving to A Preferred Future: A Reinventing Justice Action Plan.

Proposal Summaries ____ 77

Copies of the complete Working Group Proposals are available in the Franklin County Law Library and the Reinventing Justice office of the Franklin County Futures Lab Task Force.

COMMONWEALTH OF MASSACHUSETTS

The Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management of the Trial Court, in the exercise of their respective powers, Order as follows:

1. A Franklin County Futures Lab Task Force is hereby established and the Honorable Thomas T. Merrigan and Attorney Diane Esser are appointed co-chairs.

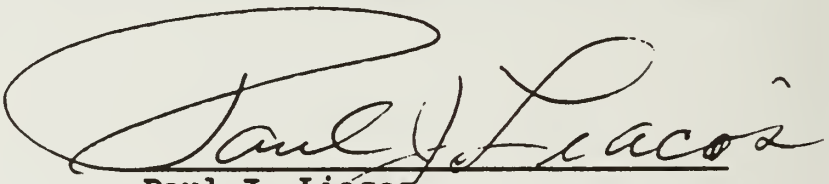
2. Franklin County is designated as a Laboratory County for the purpose of implementation of the recommendations of Reinventing Justice: 2022, the report of the Chief Justice's Commission on the Future of the Courts. Pilot projects shall be established pursuant to written recommendations from the Franklin County Futures Lab Task Force to the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management, and as duly authorized by the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management.

3. The individuals whose names are set forth in Exhibit A hereto are appointed members of said Franklin County Futures Lab Task Force.

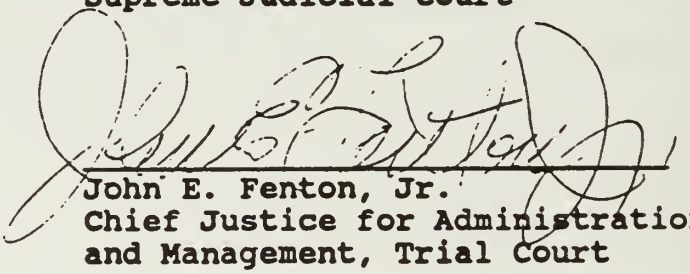
4. The Franklin County Futures Lab Task Force is charged

with convening four meetings in Franklin County for the purpose of setting long-term goals and planning innovative projects for the judiciary in Franklin County and shall continue at the pleasure and under the supervision of the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management of the Trial Court.

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the twenty-fifth day of March, in the year of our Lord one thousand nine hundred and ninety-four:



Paul J. Liacos
Chief Justice
Supreme Judicial Court



John E. Fenton, Jr.
Chief Justice for Administration
and Management, Trial Court

"Reinventing Justice"

Open Forum Schedule, Fall 1994

East County

(Orange, Athol, New Salem, Warwick, Wendell, Shutesbury, Erving)

Tuesday, October 11 at 7:30 p.m.

Orange District Court

West County

(Shelburne, Buckland, Colrain, Charlemont, Heath, Hawley, Ashfield, Rowe, Monroe)

Wednesday, October 26 at 7:30 p.m.

Shelburne-Buckland Community Center

53 Main Street, Shelburne Falls

South County

(Deerfield, Sunderland, Whately, Leverett and Conway)

Thursday, November 3 at 7:30 p.m.

So. Deerfield Elementary School

North/Central County

(Greenfield, Montague, Bernardston, Gill, Leyden, Northfield)

Thursday, November 17 at 7:30 p.m.

Franklin County Courthouse

Town meetings will be informal and active participation by any and all members present will be encouraged. Please come with brief, specific anecdotes of your personal experience, good or bad, and with suggestions for how the bad experiences might be improved or changed -- or how the good experiences might be shared with more people.

For more information or to volunteer to serve on working committees, contact:

Diane H. Esser, Esq.
Co-Chair, Futures Lab Task Force
P.O. Box 548
Greenfield 01302

Hon. Thomas Merrigan
Co-Chair, Futures Lab Task Force
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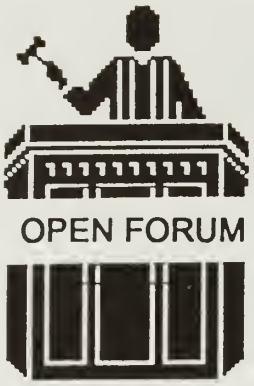


Hear Ye! Hear Ye!
Citizens of Franklin County

Are you concerned about what happens -- or doesn't happen -- to teens convicted of crimes, drunk drivers or perpetrators of domestic violence? Have you ever been to court, or thought about going? Have you ever served on a jury? Ever grumbled about our court system and thought how things would be different if anyone ever asked *you*?

Well, now somebody's asking!

In March of 1994, the Chief Justices of the Massachusetts Supreme Judicial Court and the Trial Court selected Franklin County to take part in an experiment to "reinvent justice" in Massachusetts. Quite simply, the citizens of our county are being asked to come together in a series of "town meetings" and committees to devise a way, or ways, to make the justice system work. The eyes and ears of the rest of the state, and even the nation, will be upon us.

Why was Franklin County selected?

- We're a small county where experimental programs, resulting from the suggestions you bring to the meetings, can be conducted with relative ease, and at lower cost, than they might be elsewhere in the state.
- We're a region where people are familiar with working together at the "town meeting" or grass roots level.
- Key officials here -- judges, lawyers, district attorneys, court personnel, law enforcement personnel and representatives from education, business, medical and social service agencies -- all agreed to take part in the experiment, on a volunteer basis.

How will it work?

The officials above -- called the Franklin County "Futures Lab" Task Force -- will hold a series of public meetings over the next three months where you will have an opportunity to voice your experiences, good and bad, with the justice system as it exists today and more importantly, to make recommendations for changing it. Pilot programs will be devised based on the final report of the Task Force.

What kinds of things will we be talking about?

It's up to you.

- Should delinquent kids be sentenced to forestry/life skills camps?
- Should there be information booths in the lobby of the court house where people can ask humans -- or computers, if they're comfortable with them -- what they should be doing next for any given type of case?
- How can we make reporting for jury duty more comfortable?
- How about on-site child care centers for the kids of jurors, or any other child who needs to be in court for a hearing?
- Should there be a children's courtroom with less forbidding decor?
- Should there be court at night -- or early in the morning?
- Should some cases automatically be referred for mediation?

"In order to regain the public's trust and confidence the courts must dramatically alter their way of doing business."

"Reinventing Justice"
Chief Justice's Commission on the Future of the Courts

How do I take part?

It's simple. **Come to the meeting or meetings listed on the back -- and come prepared to talk.**

REINVENTING JUSTICE

FRANKLIN COUNTY FUTURES LAB TASK FORCE

WHERE DO WE GO FROM HERE?

Come join the Franklin County Futures Lab Task Force, interested lawyers, and other interested "users," "consumers," and "stakeholders" of our justice system like yourselves as we meet to evaluate the town meetings, brainstorm our ideas, create project specific work groups, and plan for a "preferred future" of our justice system in Franklin County.

We are calling it:

"REINVENTING JUSTICE - JUSTICE FOR ALL SATURDAY"

FRANKLIN COUNTY COURTHOUSE
SATURDAY, DECEMBER 3,1994
9 AM to 4PM
$15.00 registration donation (optional)

REGISTRATION FORM

"REINVENTING JUSTICE - JUSTICE FOR ALL SATURDAY"

Saturday, December 3, 1994
9 a.m. to 4 p.m.
Franklin County Court House

Name: _____

Address: _____

Work Tel _____ Home Tel _____

FAX _____

Return Registration by November 25, 1994, To:

Franklin County Futures Lab Task Force
P.O. Box 548, Greenfield, MA 01302

SUPREME JUDICIAL COURT
BOSTON, MASSACHUSETTS 02108

PAUL J. LIACOS
CHIEF JUSTICE

December 3, 1994

Franklin County Futures Lab Task Force
c/o Hon. Thomas T. Merrigan, First Justice
Orange District Court
One Court Square
Orange, Massachusetts 01364

Dear Judge Merrigan, Attorney Esser, and Task Force Members:

The Justices and I wish to congratulate you on the overwhelming success you had in conducting the series of town meetings for the Franklin County Lab project. The level of participation by members of the public was remarkable. I am sure that the frank and constructive comments and criticisms brought forth at those meetings greatly will aid the Task Force in formulating its recommendations over the next few months. Those public participants should take pride in knowing that they have played a significant role in shaping the future of the Massachusetts Judicial System. In the court system of the future, efficient, accessible, user-friendly, and affordable service to the public will be the primary focus.

All of the Justices of the Supreme Judicial Court truly are excited to see, in the Franklin County Lab project, the implementation of the recommendations of the Chief Justice's Commission on the Future of the Courts, which completed its work in 1992. We wish to convey to all members of the Task Force and to all members of the Franklin County community our full support for your work. We are committed to assisting the work of the Task Force in any way that we possibly can. Thus, I am pleased to inform you that the Supreme Judicial Court will provide matching funds and other support to supplement the State Justice Institute grant which we are confidant you will receive. These combined resources will permit the Task Force to begin the work of turning recommendations and ideas into reality.

I extend to you my most sincere wishes for a productive and worthwhile session today at "Justice for All Saturday." The Justices of the Supreme Judicial Court and Chief Justice for Administration and Management John J. Irwin, Jr., anxiously await to hear from you in the upcoming months.

Respectfully yours,

Paul J. Liacos
Chief Justice

PJL/ccm

GOALS FOR PROJECT WORKING GROUPS ON DECEMBER 3RD

Each working group should be able to report back to the main group by the end of the day on December 3, 1994 with the following information and/or ideas:

1. **A statement of need** or problem it plans to address.

2. A rough outline of how it proposes to arrive at its goal.

3. A time frame for the pilot project.

4. a. A list of who else needs to be involved in planning to make sure that all stakeholders are given a meaningful opportunity to participate.

   b. A plan for bringing in those stakeholders and/or community groups.

5. Who among the group is going to be the contact person for the Task Force, and a way that they can be reached.

6. The next meeting date for the working group, which should be sometime in December 1994.

REINVENTING JUSTICE
FRANKLIN COUNTY FUTURES LAB TASK FORCE

PROJECT PROPOSAL APPLICATION

Please respond to the following questions keeping in mind the goals of Reinventing Justice 2022. The questions should guide but not limit your response. Feel free to include any other relevant information about your project.

1. Describe the mission of the proposed project.

2. Describe the problem that this project will solve including a statement of need.

3. How will you accomplish your project goal? Outline the steps for implementation including:

   a. Need for new legislation if applicable.

   b. Need for approval from the Chief Justices or Administrative/Executive Agencies.

4. Who will benefit from this project if completed?

Project Proposals
Page 2

5. What resources are needed to complete this project? Include a rough budget for start up funds, staff salaries, office space, etc.

6. What resources already exist in the community that can be used to further this effort?

7. Describe any future funding possibilities for this project.

8. Include at least two letters of support from the community.

CRITERIA USED BY THE TASK FORCE FOR EVALUATING PROPOSALS

The Franklin County Futures Lab Task Force has tried to reach out to as many individuals and groups in the community to solicit ideas for reinventing justice. We are now in the process of forming working groups to develop proposals that will test ideas for reinventing justice in the Franklin County Courts. It is our hope that we will see lots of proposals which address a broad range of problems. The Task Force will use the following criteria to evaluate proposals submitted to it, and to recommend certain pilot projects to the Supreme Judicial Court for implementation.

1. The degree to which the project furthers one or more of the goals and objectives identified in Reinventing Justice: 2022.

2. Relevance to the actual needs of the community.

3. The potential of this project to have a significant positive impact on one or more groups using the court system.

4. The degree to which the project integrates with existing community resources.

5. The amount of community support for the project.

6. Transportability of this project to other communities.

7. How this project complements other projects being recommended for implementation.

Franklin County Futures Lab Task Force
Reinventing Justice

PROPOSAL SUMMARIES

1. The Courts and the Community

The Education and Community Outreach Working Group responded to the underlying messages expressed at the town meetings: the public knows little about the court system and has little confidence that the system provides justice. The Group suggests three efforts to change the public's perception: a court outreach program, a Community Advisory Board, and pre-court conflict resolution opportunities. All three components would rely on the same community structure.

To accomplish these goals, a community outreach commission would be created by the Task Force. It would develop a curriculum about the justice system for various community groups, including schools, clubs, and professional organizations. To succeed, local agencies need to commit resources; schools and law enforcement communities need to be involved. An administrative "community activity" requirement for court personnel would create a pool of informed presenters who would help implement an outreach program.

The community outreach commission would designate members of a Community Advisory Board to consist of representatives of the courts, including judges, law enforcement, social and human service agencies; students and school personnel; parents and other community members. The Board would receive community input and criticism about the justice system and would focus on process, not on outcomes.

To decrease the demand for judiciary involvement, the third recommendation of the Outreach Group is to conduct conflict resolution training in communities by using the outreach structures outlined in this proposal.

A part-time administrator/coordinator would be needed to facilitate the development of the structure recommended by this proposal.

2. Reinventing Juvenile Justice

The proposal prepared by the Juvenile and Family Court Working Group calls for the creation of a comprehensive juvenile justice center that would engage community members and professionals in guiding juveniles away from destructive patterns and toward responsibility and accountability. The recommended model would provide access to a range of dispute resolution options including early intervention, mediation and alternative sentencing through a diversion plan.

The proposal suggests that a Juvenile Justice Coordinating Committee be created to represent the departments of Social Services,Youth Services, and Mental Health, of law enforcement, human service providers, business, schools and community members. The Committee would establish the structures and procedures for a Screening/Referral Panel, Diversion Board and Resource Development Team.

The Screening/Referral Panel would have a fixed membership appointed by the court. It would review complaints filed against juveniles and determine if the case should be referred for an assessment before referral to the Diversion Board, referred directly to the Diversion Board, or sent for immediate judicial intervention.

The Diversion Board would consider cases recommended by the court for juvenile diversion and those referred by the Screening/Referral Committee. Family diversion cases might also be considered. The Diversion Board would review all pertinent material, and, if the case was accepted, a Diversion Plan would be written and signed by the parties and their attorneys. A plan might include mediation, teen courts, alternative sanction programs, individual and family therapeutic services or other services. A Diversion Board member would act as case manager to assist with the execution of the plan. To provide mediation services, the court would have full-time professional mediators on staff. A protocol to coordinate arrangements with the Department of Social Services would be established.

The Resource Development Team, with representatives from business, schools, local communities, the Screening/Referral Panel and the Diversion Board, would consolidate community interest and resources to meet the need for community input identified within the Futures Lab proposals. The Team would establish community resources and programs to support diversion and alternative sentencing programs.

Two phases are recommended to implement the juvenile justice proposal. First, a Reinventing Justice Implementation Council with appropriate authority would be established. Next, the Implementation Council would develop consensus through appropriate planning and development. Once a piece of the proposal was approved by the Implementation Council, it would be put into place. Pilot project legislation and funding might be necessary to implement the Reinventing Justice project.

3. Appropriate Dispute Resolution

The Appropriate Dispute Resolution (ADR) Working Group recognizes that a trial is the traditional method of resolving matters brought to the justice system but that, increasingly, problems are brought before the court for resolution that are symptomatic of intractable social problems and are not solvable through litigation. The working group suggests that the justice system might broaden the notion of dispute resolution to view multiple options, including a trial, as appropriate.

The proposal calls for the implementation of a mandatory screening process that would result in the determination of the most appropriate dispute resolution procedure for each screened case. Some specific types of cases, such as certain criminal matters and all abuse cases, would be omitted from the mandatory screening process as a matter of policy. The screening process would be available also to possible litigants on a voluntary basis. Dispute resolution methods might include mediation, referral to social or medical services, arbitration, trial or other options.

A second component of the working group's proposal is to establish court-annexed dispute resolution services provided by a pool of individuals such as retired judges, lawyers, arbitrators and others who meet the qualifications to be determined by a Board of Directors. The Board of Directors would represent a broad cross-section of the community and would administer this service as a private non-profit corporation. The staff would consist of a Project Coordinator/Screener, a part-time screener and an administrative assistant.

The proposal raises questions about the authority that creates the dispute resolution service, analyzing the rationale for a private corporation from the viewpoint of permanence, control of administration, and funding. Start-up funding would come from both private and public sources. If the panel were established

other than as a non-profit corporation, then a Steering Committee would be appointed to make policy decisions and to ensure a broad-based community presence.

Another problem cited by the working group is that of administrative overload and duplication created by the separation of the various courts. The use of appropriate dispute resolution options would facilitate communication among the various courts by focusing on the people involved in the disputes instead of on the complaints. It would allow room to experiment with administrative cooperation among the trial court departments.

4. Alternative Sentencing and Defendant/Offender Treatment:

A Training Ground to Prevent Recidivism and Restore Community

The proposal submitted by the Ad hoc Alternative Sentencing Working Group observes that our current system of incarceration is not deterring criminal behavior and that the rate of recidivism (repeat offenses) is high. The working group suggests that the way to decrease recidivism is to change the individual's patterns of problem solving. The proposal concentrates on conflict resolution training, alternative sentencing options, programming during incarceration, and an experimental courtroom to effect attitudinal and behavioral change. The proposal calls for a Planning Board of Sentencing and Corrections, comprising court personnel, probation, law enforcement, judges, the Sheriff's office, lawyers, alternative dispute resolution representatives, and other community members, to oversee the development and evaluation of the programs. The Board would work with other committees established by the Task Force.

Conflict resolution training would be provided to law enforcement officers, court personnel and jail and correctional staff, all of whom model conflict resolution to those charged with and/or convicted of criminal activity. The model of firm but respectful interaction would have a constructive rehabilitative effect on offenders.

Another approach to changing criminal behaviors and attitudes is to involve the offender—women as well as men—in sentencing. Alternative sentencing is an agreement in which the offender participates willingly. It might involve social service referrals, drug rehabilitation, reparation to the community or victim, community service, or other constructive sentences.

With the endorsement of the Sheriff's Department, conflict resolution training and alternative sentencing options could be used for inmates during incarceration. A Volunteer Active Listening Project at the Franklin County House of Corrections would pair a trained mediator volunteer with an inmate for hour-long "active listening" sessions to establish a non-judgmental relationship. Another recommendation is to establish a group session for current inmates to be led by trained ex-offenders who would encourage rehabilitation.

Also recommended is an experimental courtroom, managed by a Laboratory Steering Committee of judges, lawyers, court personnel, professionals and community members. The courtroom would meet the requirements of the law but would explore ways to minimize the destructive polarization that is often a by-product of litigation.

5. Violence/Abuse: Needs of Victims Working Group

Media Resources

The Violence/Abuse: Needs of Victims Working Group has responded to the increasing number of women and their children who come to court, seeking relief from domestic violence and from its effects on

their children. The proposal offers several recommendations to make victims' court experiences less traumatic.

When a victim first comes to court to file a petition for a restraining order (209A), she may need information about her rights to protection, about child custody, about visitation and about financial benefits under the law. The subcommittee recommends that victims of domestic violence have a separate waiting room, away from their accused abusers. In that area, a TV and VCR would be available for viewing videotapes about domestic violence and about a victim's legal rights. The working group also recommends the production of two videotapes, one with information specific to the Franklin County court system and local resources, and another about the impact on children of witnessing domestic violence.

The working group suggests that an initial 209A petition should be heard immediately and that all second hearings should be held at regularly scheduled times and places each day or each week, which would occur during school hours.

A part-time project coordinator would be hired for six months to oversee the development of the videos. Other resources needed to implement this proposal include courthouse space, a TV and VCR, and a process to schedule hearings on petitions for protection.

Visitation Center

The Violence/Abuse: Needs of Victims Working Group has identified the need in Franklin County for a place where supervised visits between parents and children can take place.

Restricted or supervised visits for children with a parent may be indicated or ordered by the courts when children have suffered from abuse or neglect, when allegations of child mistreatment and risk of harm need to be further assessed, or when parents have been involved in abuse relationships. Closely supervised visits are also essential when a parent has been charged with a criminal offense against a child. A safe, comfortable place is not always available, and a parent's rights to visit have sometimes been temporarily suspended by the court when no neutral or safe site has been available.

Therefore the subcommittee proposes the development of a Franklin County Visitation Center, which could accommodate several visits simultaneously and which would be available two afternoons and two evenings a week. This would allow for 16 to 20 family visits per week. The hours could be increased if the demand and funding were present.

The Visitation Center would be managed by a Board of Directors, consisting of court personnel, representatives from the Department of Social Services and a local college or university (who would provide interns), a psychologist, a child care professional and at least one community member. The Board would hire a part-time Center Coordinator and Assistant. They would be responsible for screening referrals and scheduling visits, for ensuring adequate staff while the Center is open, for monitoring visits, and for overseeing all visits and documentation of visits.Security officers (off-duty police officers or court security officers if possible) would be hired to be present at the Center at all times when it is open.

The Visitation Center would also be available as a safe and neutral place for parents or relatives to exchange a child if only the exchanges needed monitoring. The Center might serve as an intern site for local college or university students. If adequate funding were available, the Visitation Center might also be expanded to serve as a child care service for parents who were involved in court proceedings.

6. The User Friendly Group Proposals

The User Friendly Working Group looked at the confusion expressed by citizens at the town meetings about the judicial system. The group has made four recommendations to increase clarity and communication between court users and the court system.

The first recommendation is to have judges, clerks, and other court officers use name plates so that individuals appearing in court know the names of court personnel. This would help to humanize the judicial process.

Another recommendation involves simplifying and standardizing the forms and documents used in the courts. It would require a review of all forms and documents, which may occur effectively during the statewide automation of the court system.

A third recommendation of the User Friendly Working Group is to establish a pool of qualified interpreters, particularly for American Sign Language, that would assist a deaf and/or blind individual in communicating with police, social service workers and courtroom personnel. To implement this recommendation, a program would be established in Western Massachusetts to identify interpreters at two levels of expertise: qualified and certified. The program would fall under the aegis of the Office of Court Interpreters Services and would require approval in order to expand the options available through the Office of Court Interpreters Services.

The last recommendation of the User Friendly Group identifies the need for widely distributed general information, using traditional methods and technology. The "electronic courthouse" relates to two discrete groups: those who work as part of the court system, and court users or citizens with questions about the courts. The Commonwealth of Massachusetts is currently automating the state court system, so the proposal focuses on ways to enhance the experience of the citizen user.

Based on the experience of court personnel about what is most often requested and/or misunderstood, information would be available in different forms (printed materials, maps, videotapes on court procedures, and electronic systems) and in different languages (for now English, Spanish and Braille). New distribution systems would be developed to make this information widely available in the community. The proposal recommends further research on the possibility of "kiosk" technology, VOX technology (voice-activated computer systems), video-teleconferencing, and case management systems. Training for existing staff will be critical in all areas of technology, and additional staff will be needed to oversee technological communication within the system of justice.

7. A Program to Increase Court Responsiveness and Efficiency

The proposal submitted by the Orange District Court describes four initiatives as part of a community-based reinventing justice model to improve public confidence in the ability of local state courts to administer justice fairly. They all involve community input in the planning, implementation and evaluation stages. By grouping these projects, resources can be shared, including one staff member who will coordinate three projects. The Substance Abuse Project will require its own full-time coordinator.

•The Divorce Education Program will be modeled after the Hampshire County "Parents and Children in Transition" (PACT) program which requires a seminar for all parents involved in custody, visitation and support disputes. During the first year of the project, the Franklin County program will be designed, based on community input and tailored to the social, economic and demographic features of Franklin County. Also in the first year, the Hampshire County PACT program will be evaluated. During the second year, the

Franklin County program will be implemented and an evaluation process begun. The results of the evaluations of the two counties will be compared and analyzed so that improvements may be made for the future.

•The Family, Children and Juvenile Justice Delay Reduction Project has two main components. One is the consolidation before one of the project judges at each Franklin County location of all proceedings in the Trial Court involving individual families and their children. The judge will assume active case management and will resolve cases in an expedited manner. The second component is the designation of the Orange District Court Judge to issue certain temporary orders in domestic cases on an emergency basis so that the individuals do not have to wait for a second hearing in Probate Court in Greenfield. Implementation involves three steps: planning, with input from the community though a public advisory committee and from court personnel; education both for members of the judicial branch and for the public about the new system; and implementation, including appropriate approvals and administrative changes. An outside evaluator will assess the success of the program.

•The Substance Abuse Community Planning Project will work to break the patterns of substance abuse, which contribute substantially to the high number of repeat offenders in Franklin County. A Substance Abuse Coordinator will oversee a collaborative process to design an effective mechanism that will begin with the needs of the abusers, of the service and court personnel involved, and of the public. In the first year, the coordinator will gather community input through a public advisory committee; will identify needs seen by judges, clerks and probation staff; will research programs in other states; and will begin to contact potential service providers. In the second year, the coordinator will finish the recommendations and oversee the implementation of the program. An evaluation of the program will be conducted by an independent evaluator.

•The Navigating Justice Project will provide a resource library to individuals who must proceed on their own in court. A collection of pamphlets, videotapes and instructional guides with appropriate court forms will explain matters such as small claims, divorce, child support, child custody and restraining orders. The materials will be available at county courthouses, town libraries and other appropriate facilities. The program will also make use of community access cable television. The project will be developed by a Community Education Working Group, collaborating with a project coordinator. Materials will be developed in conjunction with Greenfield Community College and will be publicized widely. Project staff will introduce the program at local schools and will lead orientation sessions and mock trials for students. An evaluation of the project will be conducted.

Summaries of public input and progress of these projects will be publicized through local, regional and state-wide media and made available upon request. We are committed to sharing information about the town meeting process and about public involvement in court reform efforts with other court jurisdictions in the Commonwealth and beyond.

8. Changing Lives Through Literature

The Honorable Thomas T. Merrigan and the Honorable Herbert H. Hodos have submitted a proposal for an alternative sentencing program that would divert motivated offenders, who meet minimum literacy requirements, away from incarceration and into a three-month reading and discussion project. This struc-

tured alternative to incarceration would give motivated defendants an opportunity to break the cycle and pattern of non-productive criminal conduct.

The course would meet biweekly at Greenfield Community College, and participants would be required to be clean, sober, on time and prepared. Non-compliance would result in violation of probation proceedings and incarceration.

The proposal further recommends that the Diversion Board suggested in the juvenile justice proposal be established to undertake supervision of adult individuals, male and female, who are criminal defendants. The diversion program would be asked to provide supervision for the literature participants for an extended period following the program.

9. Administration/Efficiency Group Project/Proposal

The Administration/Efficiency Group Project Proposal responds to the duplication of efforts, procedures and roles of the trial court departments and the fractured experiences of court users who come before more than one circuit riding judge during the course of court involvement.

The group has three major recommendations: to establish an Intake/Assessment Center for all petitions; to give judges responsibility for individual case loads that would include all the matters of individual families; and to establish a Judicial Administration Team of local judges to direct judicial resources; screen cases and assign them to individual judges; oversee judicial budgets, procedures, space and personnel; and create a court house council. A Transition Team, including an administrator, would be necessary to oversee the implementation of this system.

Under this proposal, all matters would be filed and initially processed at an Intake/Assessment Center, which would assess the petition, recommend the most efficient way to resolve each dispute, and set a tracking schedule for service.

Some matters would be referred to a Magistrate Session (i.e., civil motor vehicle infractions and small claims, criminal show cause hearings and arraignments of criminal/juvenile defendants). Others would go to a Triage Hearing at which a judge or hearing officer would listen to the issues and recommend a method for resolution. Emphasis would be placed on alternative dispute resolution rather than judicial solutions. At the Triage Hearing a judge would be assigned to that case who would follow it to its conclusion, overseeing alternative dispute resolution efforts. All matters involving one family would be consolidated and placed before a particular judge.

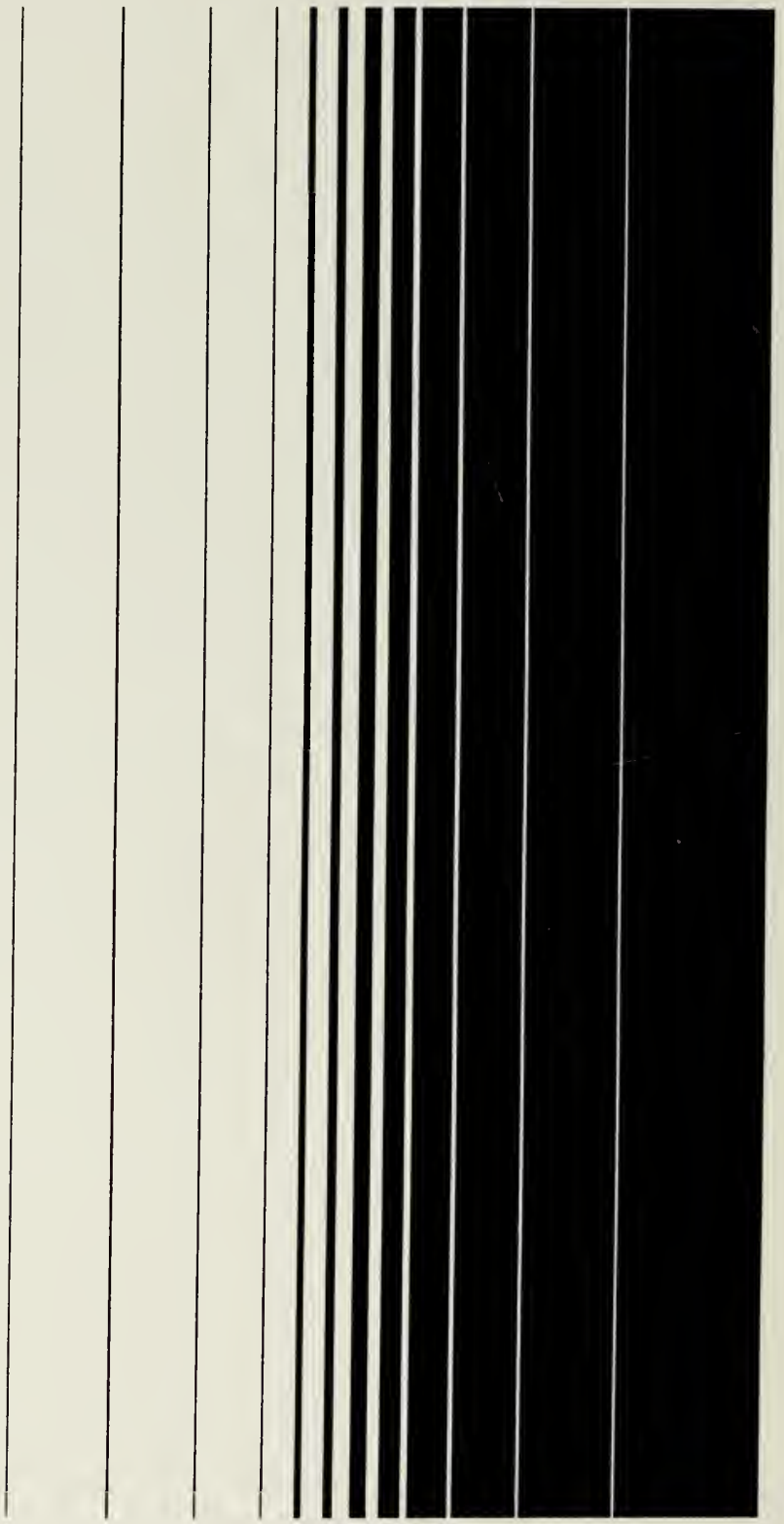
Jurisdictional boundaries between the trial court departments would be dissolved. The functions of the court clerks' offices for the District Court, Juvenile Court, and Register of Probate would be consolidated to create the Intake/Assessment Center. Non-evidentiary matters from the Superior Court (i.e., Mary Moe Petitions, Settlement Approval, arraignments) would be processed through the Center. The Center would also provide information to the public, answering questions, giving directions and distributing resource materials.

10. Monocourt—2000

The Monocourt—2000 proposal calls for the dissolution of boundaries between District, Juvenile, Probate and Superior courts in Franklin County. Incentives would encourage litigants to settle cases out of court. If a case goes before a judge, there would be a "judiciary user fee", which could be waived in certain instances. Magistrate Hearings would be used for some complaints, such as small claims, motor

vehicle infractions, and show cause hearings. If the parties have been unable to resolve the dispute, the magistrate would set a prejudicatory conference date. There would be no user fee for Magistrate Hearings.

The proposal also suggests changes in the administrative aspects of justice. A Consumer Support Unit would give information to court users about alternative dispute resolution, attorney of the day services, videos, interpreters, victim-witness services, and services available in the community. An Office of Intake and Records would process the initial evaluation of disputes and would require an attempt at an alternative dispute resolution process before judicial intervention. An Office of Judicial Scheduling would assign cases for judicial action, maintaining a calendar for emergency coverage. A Jury Unit would handle jury selections and questions by prospective jury members. A Records Unit would organize and maintain all court records. There would also be a centrally organized Office of Probation. A Court Administrator with one or two staff members would be responsible for the overall planning and implementation of Monocourt—2000.



September 1995
Greenfield, Massachusetts